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Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

Fifth periodic report of States parties

Austria*

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* The present document is being issued without formal editing.

For the initial report submitted by the Government of Austria, see CEDAW/C/5/Add.17, considered by the Committee at its fourth session. For the second periodic report, see CEDAW/C/13/Add.27, considered by the Committee at its tenth session. For the third and fourth periodic reports, see CEDAW/C/AUT/3-4.

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INTRODUCTION

In 1982 Austria ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and has thus agreed in accordance with Article 18 of the Convention to submit regular reports, at least every four years, on obstacles encountered, measures taken and progress achieved in implementing the Convention. The ***first such report*** was drawn up in 1983 (CEDAW/C/5/ADD 17 of November 1, 1983). This report with annexes (CEDAW/C/SR.51,55,56,62) was discussed at the Fourth CEDAW Meeting held in Vienna from January 21 to February 2, 1985.

The ***second report***, which covered the period from 1983 to 1988 (final in extenso version of February 1989), was dealt with and adopted by the CEDAW Meeting held in February 1991 (CEDAW/C/13/Add. 27; CEDAW /C/SR.184).

The ***third and the fourth report***, which were presented in 1996 (CEDAW/C/AUT/3-4), gives detailed surveys of the period from January 1989 to December 1995. The present ***Fifth Report***[1] contains an in-depth description of specific activities for the advancement of women and of the situation of women in Austria in the years 1996 to mid-1999.

Described below are some of the most important measures which Austria has energetically pursued in the reporting period and will continue to pursue in the future with a view to translating into practice the demands for full participation of women in all spheres of economic and social life on equal terms with men:

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[1] The reporting period ended on June 30, 1999.

- creating a ***legal framework*** for the furtherance of equality of women and girls in all spheres of social life;

- preserving and creating ***jobs for women*** through specific labour market programmes for the advancement of women and conceiving special measures to support women who, after having interrupted working life or after phases of unemployment, wish to re-enter the labour market;

- working out programmes for overcoming gender-stereotypes in the choice of a profession or occupation and for upskilling women in order to increase the number of women holding ***leading positions*** in political, economic and public life, science or other fields of particular relevance to society;

- giving women and men the opportunity to ***reconcile job responsibilities and family obligations*** through the establishment of child-care facilities in sufficient numbers and through urging that spouses share work in the home and contribute to the upbringing of children as equal partners;

- improving the status of women in old age under social insurance legislation by giving greater attention to specific female life trajectories in the ***assessment of pensions***;

- safeguarding the ***material and non-material basic needs*** of women and their children in single-parent families, in existing marriages and after divorce;

- adopting ***violence-prevention*** measures and giving assistance to victims of violence, especially through the provision of information and the establishment of homes for women and children who are threatened by or exposed to violence;

- integrating a comprehensive gender perspective into ***Austrian Development Co-operation programmes and projects*** at all levels and in all areas and advocating the causes of gender equality and empowerment of women in EU development policies and in other international contexts;

- advocating the partisan approach to ***human rights of women*** at the international level and supporting measures which ensure more effective application of international human rights instruments.

Despite the mounting trend towards dismantling the welfare state which has manifested itself since the 'nineties. Austria remains committed to the goal of ensuring ***women's opportunities to participate*** in all spheres of social and economic life. Even if the economic, political and social environment should change in the future, Austria will stand by its commitment, seek to preserve ***social peace*** in this country, also in the sphere of gender relations and, as a priority, assure effective participation of women and men on equal terms in the pursuance of overall societal objectives and in the realisation of common values.

IMPLEMENTATION OF THE CONVENTION

In the period from 1996 to mid-1999, Austria focused, in particular, on the activities described below (listed according to the individual Articles of the Convention).

ARTICLE 2

Pursuing a Policy to Eliminate Discrimination against Women

Article 2, Letter a)

The Principle of Equality as Enshrined in Austrian Law

The ***fundamental precept of equality*** is enshrined in the Austrian legal system at different levels and in different areas: Taking into account the national historical background and legal policy developments, Austria has brought its legislation into line with regional and universal measures for the protection of fundamental human rights under international law.

The ***general concept of equality*** is defined in Article Two of the Austrian Fundamental Law of 1867 Governing the General Rights of Citizens and is supplemented by the right of access to public offices on equal terms, which is incorporated in Article Three of this law.

The ***principle of equality*** embodied in Article Seven of the Federal Constitution is the core element of the country's equality legislation. On May 16, 1998 an amendment to this law entered into force, which included a new paragraph two. The relevant provisions of this Article read as follows:

„1) All citizens of the Federal Republic are equal before the law. Privileges (...) on the ground of sex (...) are inadmissible. (...)

(2) The Federal Government, the Provinces and local authorities pledge themselves to de-facto equality of men and women. Measures designed to further the de facto equality of women and men, especially through the elimination of existing inequalities, shall be admissible.

(3) Official titles may be used in a form that reveals the gender of the office holder. The same shall apply to titles, academic degrees and professional titles."

In the first sentence of the amended Article Seven, paragraph two of the Federal Constitution, the ***objective of the Austrian state*** of attaining de-facto equality of women and men has been established. In the second sentence relating to the implementation of Article Four of the UN Convention on the Elimination of All Forms of Discrimination against Women – (CEDAW) measures for the advancement of women are explicitly defined as admissible under Austrian constitutional law.

This amendment had become necessary because according to Austrian legal doctrine the general principle of equality in itself did not carry the obligation to incorporate into the legal system a mechanism for achieving full equality of the sexes in practice and did not explicitly give the legislator a mandate to amend the law.[2]

Article 66, paragraphs one and two, and Article 67 of the State Treaty of St. Germain, as well as Article Eight of The State Treaty of Vienna contain

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[2] A bill proposed by the Federal Minister for Women's Issues in 1995 entitled „Federal Constitutional Law on the De-facto Equality of Men and Women" which would have filled this gap, failed to receive the required majority. Only with the above-mentioned amendment to Article Seven of the Federal Constitution could the required clarification be introduced, namely that the principle of equality also applies to measures designed to further de-facto equality of women and men.

further bans on discrimination, also on the ground of sex. In addition, the ***protection of human rights under international law*** is embodied in the Austrian Constitution through the „accessory ban„ on discrimination as set forth in Article 14 of the European Convention on Human Rights (ECHR) and through the equality of the spouses as set forth in Article Five of the Seventh Additional Protocol to the European Convention on Human Rights.

Articles One to Four of ***CEDAW*** occupy a ***special position***, and were recognised by the Austrian National Council as constitutional, however, a reservation was made pursuant to Article 50, paragraph two of the Constitutional Law, stipulating that this state treaty is to be fulfilled by passing certain laws.

The constitutional principles are supplemented by the provisions concerning ***women covered by social insurance***. The relevant provisions of the Federal Constitutional Law Governing the Retirement Ages of Men and Women (Federal Law Gazette 1992/832) stipulates the following:

> *„Section One. Statutory arrangements providing for different retirement ages of men and women covered by statutory social insurance shall be permissible."*

Furthermore, this law provides for an incremental increase of the early and regular pensions ages for women covered by social insurance, starting in 2019 and 2024 respectively and ending in 2033.

As regards ***universities, colleges and other institutions of higher education***, Section 106a, paragraph two of the "University Organisation Act" (UOG 1975), Section 25a, paragraph two of the "Academy Organisation Act", Section 14b, paragraph two of the "Art College Organisation Act„ as well as Section 39, paragraph two of the Federal Act

Governing the Organisation of Universities (UOG 1993) provide for the adoption of special temporary measures destined to accelerate the process of establishing de-facto equality of women and men. These provisions which have constitutional law status and were adopted with a view to implementing Article Four of CEDAW, stipulate that such special temporary measures destined to accelerate the process of establishing de-facto equality of women and men as set forth in CEDAW shall not be deemed as unequal treatment as defined in Article Seven paragraph one of the Federal Constitution.

European Law Maxims

1. Primary legislation

With the State Treaty on the Accession of Austria to the European Union which entered into force on January 1, 1995, the national legal acquis was complemented and modified. Pursuant to the Act which forms an integral part of the Accession Treaty all Treaties concluded and legal acts passed by EU institutions prior to the accession, especially regulations and directives, apply to and have legal force in the new Member States.

The original legal acquis of the European Union merely contains individual guarantees of fundamental rights. The Treaty Establishing the European Community (TEC) contains, alongside the ban on any form of discrimination on the ground of nationality in accordance with its Article Seven, *the **principle of equal pay for equal work***. For women and men as set forth in Article 119 of the TEC. This principle, which was incorporated into the TEC in 1957 for purely economic reasons, has meanwhile been further developed by the Court of Justice of the European Communities and now constitutes the ***fundamental social right to equal treatment*** enjoyed by women and men alike enshrined in the labour and social legislation of the EU and representing a vital element of the EU's legal acquis. Relevant documents in connection with the

principle of equal pay for work of equal value are the Protocol on Article 119 of the Treaty Establishing the European Community (TEC) which complements the Treaty on the European Union (TEU) as well as the „Agreement on Social Policies".

Under the Amsterdam Treaty, the EU now has at its disposal a set of far-reaching instruments allowing it to pursue a European equality policy. Equality has meanwhile been defined as a separate policy area:

With the entry into force of the Amsterdam Treaty of June 25, 1997 on May 1, 1999, Article 119 of the TEC was amended, changed to Article 141, and supplemented:

„1) Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

(2) For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

a) That pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

b) That pay for work at time rates shall be the same for the same job.

(3) The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the

application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

(4) With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers."

The principle of equal pay for equal work has thus been extended to equal pay for work of equal value. This means that the legal situation which had prevailed until then has been expressly taken into account in the Treaty Establishing the European Community (Article 141, paragraph one of the TEC).

A ***declaration*** was also adopted on paragraph four of the amended and additional text of Article 141 of the TEC (formerly 119). It reads as follows:

„Measures taken by the Member states pursuant to Article 119 (replaced by Article 141, see above), paragraph four, should primarily serve the improvement of the situation of women in working life."

Furthermore in Article two of the Treaty establishing the European Community

efforts to assure equality are now explicitly stated as a central task of the

European Union. The European Union has thus been vested with a number of

well-defined powers to adopt measures for the advancement of women and ensure

the equal treatment of men and women (Article 137, paragraph one, Article 141,

paragraph 3 and Article 13 of the TEC). At the same time, Article 3, paragraph

Two of the TEC stipulates that efforts to ensure equality must form part of all EU

activities, i.e. the gender mainstreaming approach has thus been explicitly

incorporated into the Treaty Establishing the European Community.

2. Secondary legislation

On the basis of the general power for the approximation of laws pursuant to Articles 94 and 308 of the TEC, the power to harmonise protective regulations for wage and salary-earners pursuant to Article 138 of the TEC as well as in applying the principle of equal pay for equal work pursuant to Article 141 of the TEC, the EU Council, upon a proposal by the Commission, has so far adopted ***eight Directives*** on the realisation of equal treatment of women and men in the world of work and under social insurance legislation, maternity protection, paternal leave as well as on the burden of proof. Whereas the goals defined in the directives issued by the Council of the European Union are binding for the Member States, it is left to the discretion of their national authorities to choose the way in which

they realise these objectives and the instruments they use for this purpose.

3. „Soft Laws"

Besides regulations and directives, the EU may also issue recommendations and opinions, which are, however, not binding for its Member States. These instruments entail certain legal consequences in that they may constitute ***conditions*** for subsequent measures or serve confidence building.

In connection with equal opportunity and equal treatment of the sexes, a number of legal acts passed by EU institutions are relevant, such as the Council recommendation on the furtherance of positive measures for women, on child-care, and the balanced involvement of women and men in decision-making processes, as well as the Commission recommendation on the vocational training of women, the Council resolution and the Commission recommendation on the protection of the dignity of women and men at the workplace.

Further legal acts which have the status of soft laws complement equal treatment legislation and can be regarded as *indicators of trends in legislative development*. A number of documents should be mentioned in this context. These are the two Council resolutions on the furtherance of equal opportunities for women, the Council resolution on combating female unemployment, the Council resolution on the Action Programme for the Promotion of Equal Opportunities for Girls and Boys in Education, the Council resolutions on the reintegration and integration of older women into working life on, the Fourth Medium-Term Action Programme of the EU for Equal Opportunities for Women and Men (1996-2000), on the Representation of Women and Men in Advertising and in the Media and on the Participation of Women on Equal Terms in an Employment-intensive EU Growth Strategy. Furthermore, the Commission

recommendations on the vocational training of women as well as the European Parliament recommendation on the situation of women in the European Union deserve special mention.

Article 2, Letters b) to f)

Equal Treatment in the Private Sector

The ***Equal Treatment Act***[3] which entered into force in 1979 governs employment relationships based on private-law contracts. In the meantime, this Act has been amended four times.[4] As a result of the latest amendment made in 1998 (Federal Law Gazette I, No. 44/1998) the precept of equal treatment now also applies to cases of ***sexual harassment*** by third parties, in which employers have taken appropriate remedial action. In addition, ***persons consulted*** in such cases, upon their application, will in the future be able to claim reimbursement of travel expenses. Furthermore, this amendment stipulates that by regulation ***Regional Ombuds Offices for Equal Treatment Issues*** can be set up in the Federal Provinces, if this appears necessary in order to improve the

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[3] The law of 1979 entitled "Act on the Equal Treatment of Men and Women in the Determination of Incomes„ (Federal Law Gazette, No. 108/1979) incorporated the principle of „equal pay for equal work„.

[4] In 1985, when the Act on the Equal Treatment of Men and Women in Working Life was passed, the scope of the Equal Treatment Act was extended (Federal Law Gazette No. 290/1985). The most important new provisions of this Act related to fringe benefits as well as in-company basic and further training, the requirement of gender-neutral job advertisements, the obligation of companies to submit reports to the Equal Treatment Commission upon the latter's request, and the earmarking of federal funds for procedures used to assure compliance of enterprises with the Equal Treatment Act. Another amendment to The Equal Treatment Act made in 1990 (Federal Law Gazette No. 410/1990) provided, in particular, for the extension of the equal treatment requirement to individual phases of employment, the determination of minimum compensation, the obligation of women merely to prove discrimination without having actually to furnish evidence of it, and the option to address the Equal Treatment Ombudswoman's office as a contact and counselling point. The Ombudswoman has performed her task since 1991 and has her office in Vienna. Another amendment which forms part of the „Equal Treatment Package„ (Federal Law Gazette, No. 883/1992) in essence harmonised Austrian law with the EC directives on equal treatment and, amongst other things, defined sexual harassment unequivocally as discrimination on the ground of sex.

counselling and support of individuals in connection with equal treatment issues. Under this amendment, a Regional Ombuds Office for Equal Treatment Issues was established in ***Innsbruck*** in autumn 1998.[5] The Federal Provinces of Salzburg, Tyrol and Vorarlberg fall under the competence of this regional office.

Pursuant to this regulation, the Equal Treatment Commission is ***chaired*** by a federal employee who is entrusted with this task by the Federal Chancellor after consultation with the interest groups represented on the Commisssion.[6]

As during investigations by the Equal Treatment Commission the periods during which claims can be lodged with a court are stayed, the amendment defined ***deadlines*** on which such periods end.

In the years 1996 and 1997 the Commission dealt with a total of ***56 cases***; Of the complaints lodged with the Commission, the overwhelming majority of cases related to incidents of sexual harassment; furthermore, discrimination in promotion, in working conditions and in ending employment was observed.

Public Contract Awards as an Instrument for the Advancement of Women

The Federal Minister for Women's Issues and Consumer Protection regards the linking of public contract awards with the goal of furthering female employment as the appropriate approach to strengthen the

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[5] The Ombudswoman for Equal Treatment Issues has the right to obtain information from the employer, works council and the staff of the company involved and a report from the woman concerned when a complaint about an alleged violation of the equal treatment principle is lodged. In addition, the Ombudswoman has the right to submit an application for a review procedure or for en expert opinion given by the Equal Treatment Commission, which may mandate her to engage in investigations.

[6] The amendment of 1998 (Federal Law Gazette, Number 44/1998) extended the group of persons who may be appointed as chairperson from „civil servants" to „government employees" (Section three, paragraph two leg. cit.)

willingness of companies to pursue internal policies for the advancement of women.

At the initiative of the Federal Minister for Women's Issues and Consumer Protection, an ***enquiry*** was conducted on the topic „Public Contract Awards as an Instrument for the Advancement of Women„ on October 24, 1997. This meeting studied the legal framework at the EU, federal and province level in which the public sector would, in awarding contracts, give priority to enterprises actively pursuing policies for the advancement of women.

Also at the initiative of the Minister for Women's Issues and Consumer Protection, Federal Ministries headed by Social Democratic cabinet members as from March 1999 will have to give priority in awarding public contracts to ***companies*** actively pursuing policies for the advancement of women or taking measures to help individuals reconcile job responsibilities and family obligations. Relevant ***guidelines*** taking into account EU and national legal provisions, and determining the conditions under which public contracts are to be awarded to pro-women companies or companies which help their staff to reconcile job responsibilities and family duties, have been issued for the Federal Chancellery and the ministries headed by Social Democrats and have been applied since March 1999. In selecting the best bidder, measures for the advancement of women are weighted at up to 2 %, and the employment of apprentices is also weighted at up to 2 %, whilst the price of the offer, weighted at 96 %, continues to be of primary importance. This arrangement is restricted to awards involving sums that remain below the threshold defined in the Federal Act Governing Public Contract Awards. Apart form the ban on de-facto discrimination, therefore, the EU directives on public contracts do not apply.

In-company Advancement of Women

In Austria, the advancement of women depends, to a large extent, on the voluntary commitment of enterprises to this objective. At present in Austria, companies having plans for the advancement of women are the exception rather than the rule and only few enterprises have developed informal structures for actively advancing the female members of their staff. Pursuant to Section 92b, which was inserted into the Labour Systems Act in 1998, employers now have an obligation to consult shop stewards or works councils on ***measures*** for the advancement of women at company level (recruitment procedures, basic and further training, career development, countering of the under-representation of women on the staff or in certain positions) and to consider options to allow individuals to combine job responsibilities and family obligations. Shop stewards or works councils have the right to submit proposals on these matters and to demand that a particular measure be taken. However, the conclusion of relevant agreements is voluntary.[7]

Equal Treatment in Public Service

Since 1993, the equal status of women and men and the advancement of women in federal public service have been enshrined in *the* ***Act on Equal Treatment in Federal Service***.[8]

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[7] Section 2b of the Equal Treatment Act of 1979 furthermore stipulates that federal subsidies may only be granted to companies complying with the provisions of the Act. See footnote on the Equal Treatment Commission and the text passage dealing with the awarding of public contracts.

[8] See Federal Law Gazette, No. 100/1993, No. 16/1994, No. 43/1995, No. 552/1995, No. 375/1996, No. 30/1998. The Act on Equal Treatment in Federal Service contains the requirement that nobody in the public service must be directly or indirectly discriminated against on the ground of sex and the requirement that women must be advanced. The major instruments serving the enforcement of equal treatment laws are the Federal Commission on Equal Treatment, the Equal Treatment officers in all ministries, the Working Groups for equal treatment issues at the universities, art colleges and academies, the Equal Treatment Working Groups in central agencies,

Damage claims for discrimination on the ground of sex in the recruitment for federal service or in career advancement are currently limited by a compensation ceiling. Under the most recent amendment to the Federal Act on Equal Treatment, Federal Law Gazette, Number 132/1999, which will take effect as of January 1st,2000, individuals who are discriminated against in recruitment or advancement on the ground of sex will have the right to claim a minimum compensation whose amount is unlimited. In accordance with this amendment, public authorities have the obligation to pass on to the disciplinary board any report in connection with sexual harassment.

In the period from 1994 to 1997 the Austrian Federal Provinces passed ***Province legislation on equal treatment*** for the benefit of staff of local governments. The Federal Province of Vorarlberg passed a Province law on the advancement of women and established control and consultation mechanisms for compliance with legal provisions and for the furtherance of equality of women employed by the Province. The scope of these individual Province laws varies, with some applying to persons employed by the Province government, the communities and associations of local authorities and others covering employees of the Province only.

Article 2, Letter g)

Penal Law on Sexual Offences and Court Proceedings

The 1996 Act on the Amendment of Criminal Law, (Federal Law Gazette, No. 762) provides that, in view of the particular mental stress to which victims of sexual offences are exposed as witnesses in court proceedings, the ***gender of the victim*** (and the defendant) shall be taken into account in the composition of magistrates' courts and jury courts. This is primarily

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the inter-ministerial Working Group for Equal Treatment issues in the Federal Chancellery and contact women appointed in each agency which employs a minimum of five females.

to ensure that women who are victims of a sexual offence do not have to give evidence before an all-male court. In practice this means that at least one out of four persons in a magistrates' court and at least two out of eleven persons in a jury court must be women.

The reform of the Penal Law on Sexual Offences which took effect on October 1, 1998 (Act on the Amendment of Criminal Law, Federal Law Gazette One, Number 153) pursued the objective of remedying some existing shortcomings of the penal law on sexual offences and of the relevant rules of procedure, before the debate on more far-reaching reforms was concluded and before preparatory work on such reforms was completed.

Particular attention has been given to the growing ***disapproval of sexual exploitation and abuse of children***, on the grounds of social ethics, and the range of punishment for sexual abuse of children under full age in the form of acts tantamount to sexual intercourse (e.g. anal or oral penetration) has been raised accordingly. To ensure proper prosecution of such offences, statutory periods of limitation, especially in cases of sexual abuse of children and adolescents, do not commence before the victim has reached the age of consent.

Experience gained, in particular, in developmental psychology has clearly shown that individuals who had been sexually abused during their childhood often are capable of talking about this abuse only once they reach adolescence or even later in life, and can only then begin to cope with this traumatic experience, especially in cases in which the crime was committed by a member of the family who has a much higher potential of exerting pressure in order to manipulate the child.

An essential element of the Act on the Amendment of Criminal Law was to improve the protection of victims, particularly in the case of sexual offences. The practice of ***contradictory interrogations*** in the interest of witnesses was expanded and intensified[9]. ***„Gentle interrogation"*** is now legally binding (without direct confrontation with the defendant) where children have been victims of a sexual offence, whereas all other persons, whose sexual intimacy may have been violated by a criminal offence, are now entitled to request such an interrogation too. It is also possible to conduct gentle interrogations with witnesses who under criminal law have not themselves been victims of a criminal offence (e.g. children who have witnessed an act of rape), and commission an expert to carry out the interrogation. Furthermore, victims of sexual offences have the right to refuse to give any further evidence following the contradictory interrogation. This is to protect them from having to appear as witnesses in court more than once.

Upon the initiative of the Federal Minister for Women's Issues and Consumer Protection courts are currently running the pilot project ***„Giving Psychological and Legal Support to Sexually Abused Girls, Boys and Adolescents throughout Criminal Proceedings"*** is currently being run. This project offers psychosexual and legal counselling both to children and adolescents who have become victims of sexual abuse and to their reference persons before, during and after criminal proceedings and has the aim of counteracting secondary victimisation..

Act on Protection against Violence in the Family

The Act on Protection against Violence in the Family came into force on May 1, 1997.

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[9] This development was initiated by the Act on the Amendment of Criminal Law, 1993, Federal Law Gazette No. 526, which made extensive changes to the rules for the protection of witnesses.

Under this Act, law enforcement officers have the power to expel a (potential) perpetrator from the home he shares with the victim and remove him from its immediate surroundings and issue an out-of-bounds order, if a dangerous attack on the life, health or freedom of the victim is imminent.

Expulsions and out-of-bounds orders serve the protection of all individuals living in a common home, irrespective of the type of family relationship or kinship and property ownership. By enshrining these law enforcement measures in legislation, for the first time women and children exposed to violence are now given the opportunity of staying in the home in which they live and need no longer escape from it in order to assure their safety.

The federal and rural police may confiscate the keys of the home from the perpetrator; if he refuses to leave the premises, law enforcement officers may resort to coercive power to make him leave.

If the perpetrator fails to comply with the ban on return, an administrative fine may be imposed on him. Should he repeatedly ignore such a ban, he may also be arrested. Prior to the reform, extremely serious violence constituted the prerequisite for federal and rural police officers to offer immediate and effective assistance to the victim. In the past a perpetrator could only be arrested if he had committed a serious criminal act and if there were reasons warranting his arrest.

In view of the Fundamental Right to Integrity of a Person's Private Sphere pursuant to Article 8 of the European Human Rights Convention as well as other relevant fundamental rights (property, freedom of occupation), special attention was given to the rule of reasonableness in connection with a prohibition to enter premises issued by the police. Bans on entering

premises must be reviewed by the competent law enforcement agencies within 48 hours.

Out-of-bounds orders issued by the police remain valid for up to seven days. In the event that an application for an out-of-bounds order has been filed with court, that period is extended, for up to a maximum of 14 days, until the court has made a decision.

Injunctions serve the purpose of protection all near relatives who live in the same household with the (potential) perpetrator or who have co-habited with him during the past three months preceding the application for injunction. The competent youth welfare offices may also step in with a view to supporting children. In addition to having injunctions issued to evict perpetrators from the home, the court may also prohibit perpetrators from meeting the victims in certain specified locations (workplace, school, kindergarten, etc.). Injunctions may be issued for a period of three months. In the event that the victim brings the perpetrator to trial under family law (e.g. by petitioning for divorce), the provisional injunction may be extended for the duration of proceedings.

The courts may apply these measures in cases where continued co-habitation or meeting with the perpetrator is ***deemed intolerable*** for the victim. In the past, an act of violence had to be so serious as to actually make further co-habitation unbearable.

Prior to the entry into force of the Act on Protection against Violence in the Family, only spouses were entitled to file applications with court to have their violent partners evicted from the home.

It should be noted that adequate ***compensation of victims*** of sexual abuse under the damages legislation frequently posed problems in the past. In the event that the consequences of abuse could not (yet) be qualified as bodily harm and victims' freedom of movement was not

restricted, victims could only claim compensation for material damages (e.g. costs of treatment by psychologists or psychotherapists) but not for pain and suffering. This legal situation which was considered as extremely undesirable and was remedied when the Federal Act on the Protection against Domestic Violence was passed. As a result, the restrictions on claims for damages in cases of encroachment on a person's sexual self-determination currently in force were removed. Under this new regulation all victims of sexual abuse are entitled to adequate compensation. The consequences of encroachment on a person's sexual self-determination, which constitutes an essential element of the private sphere, have been reassessed.

Since the entry into force of the Act on the Protection Against Violence the situation of women and children has been significantly improved. An important achievement of the reform was that law enforcement agents are now obliged to provide women in danger with information on suitable „victim protection facilities".

The duty to provide information is derived from the fact that women who have experienced violence are in need of counselling and support so that they can recognise and effectively make use of the chance to change their lives. This means that experts' knowledge is made available to them, they are granted partisan support and understanding and that they are strengthened and encouraged to embark on a new path of life[10].

Effective protection of victims and prevention of further victimisation also means ***working with the perpetrators***. The activities of the „Platform against Violence in the Family„, which is funded with ATS 2 million annually, have been extended to include working with boys and men and working with perpetrators.

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[10] Concerning protection measures for victims see comments on Article 5, Letter a).

In 1997, a model project on working with sexually abusive men was initiated on the basis of internationally developed ideas. The project, which is still ongoing, is financed by the Ministry of the Environment, Youth and Family Matters. The Ministry published a study on international projects on working with perpetrators, which will serve as a working basis for all parties involved. An expert group consisting of representatives from all professions involved in working with violent men and victims was set up which will serve as a platform for an exchange of experiences and as a basis for working with perpetrators.

ARTICLE 3

Assuring the Full Development and Advancement of Women in the Political, Social, Economic and Cultural Fields

Representing the interests of Women at Governmental Level

Since 1991 the problems and interests of women in Austria have been represented at governmental level by a Federal Minister attached to the Federal Chancellery. She heads the group that was originally set up as a Directorate General for Women's Issues and Consumer Protection in 1977 within the Federal Chancellery.

In 1997 a special ***Internet home page*** (http://www.bminfv.gv.at) of the Federal Minister for Women's Issues and Consumer Protection was created from which information about the tasks, publications, events and other activities carried out by the Federal Minister can be retrieved.

In addition, the Federal Minister for Women's Issues and Consumer Protection also publishes a ***Report*** that is drawn up every ten years (the most recent one dates back to 1995), which illustrates the current situation

of women in Austria and contains numerous statistics. Furthermore, the Federal Minister also publishes a series of brochures on different socio-political topics specific to women on a scientific basis.

Counselling Centres for Women

In 1991, the then Federal Minister for Women's Issues started building up a country-wide network of ***Women's Counselling Centres.***

At present 31 such Women's Counselling Centres exist in Austria, which are partly funded out of the budget of the Federal Minister for Women's Issues and Consumer Protection and offer counselling and support services to women on legal, psycho-social, medical and socio-economic matters. In addition, during the past two years the network of ***Family Counselling Offices*** set up by the Federal Ministry of the Environment, Youth and Family Matters was expanded.[11]

Measures Aimed at Developing and Advancing Women's Cultural Abilities

Although, in the 'eighties and 'nineties, women's cultural achievements have been increasingly acknowledged by a growing number of people and major social improvements have been attained in this respect, female art workers continue to be only under-represented in the media, in the classical artists' agencies and in the art market and receive significantly lower incomes. In 1998, the Minister for Women's Issues and Consumer Protection therefore commissioned a female expert with the preparation of a ***study*** in which, for the first time in Austria, the social and economic situation of female art workers in different fields was analysed, and the measures and strategies that hinder women or help their advancement were studied. It is the goal of this study to evaluate potential innovative

[11] See comments on Article 16, Letter c).

models for furthering women in the realm of art and culture.

At the end of 1998, the Minister for Women's Issues and Consumer Protection also set up a special ***Women's Art Award*** with a view to promoting female art workers. This prize, worth ATS 700,000, was conferred for the first time in 1999. It will henceforth be awarded every year in a different field of art and may be conferred on a maximum of five female winners. In addition, starting in 1999, funds from the budget of the Federal Minister for Women's Issues and Consumer Protection will be earmarked for supporting women's art projects.

Austria's Commitment to Development Co-operation

The ***"Beijing Platform for Action"*** (1995) initiated at the Fourth World Conference on Women of the United Nations provided concrete steps towards increased international co-operation in the field of gender mainstreaming and in defining gender-specific perspectives (A/CONF.177/20). Against this background, in December 1995, the Council of EU Development Ministers passed its pioneering ***"Gender Resolution"***, which emphatically states that

> *"Overcoming gender-based inequalities with regard to the efficacy of the assistance rendered and in the interests of social justice represents a core question in development policy."*[12]

Based on this resolution, the Commission proposal for a ***"Gender Regulation"*** was submitted in May 1997. This Regulation which has legal status in Austria as well was passed on December 30, 1998 by the EU Council of Ministers,[13] and emphatically supports the consistent and

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[12] EU press release 12847/95, 20 December 1995: see Council resolution, I, Introduction, para. 1.

[13] Published in the Official Journal of the EU L 354, pp. 005-009.

concrete consideration of a gender-specific approach at all levels of the development process.

The new ***"DAC Guidelines for Gender Equality and Women's Empowerment in Development Co-operation"*** issued in 1998 by the DAC, the Development Aid Committee of the OECD constitute another important document dealing with this issue.

Based on these considerations, under the Austrian Development Co-operation Programme a ***new strategy*** was developed which upholds the principles of human rights, the rule of law, democracy and good governance, and aims at strengthening and building up a civil society. A further important point is the goal to increasingly incorporate environmental aspects and "gender fairness" into the Austrian Development Co-operation Programme, with the goal of achieving synergies.

The declaration of intent embodied in the Austrian Development Co-operation's ***Three-Year Programme 1996-1998*** that the ***"practical and strategic interests of women*** must be given priority" marked an important step forward in this respect.[14]

This ***"gender-specific approach"*** encompasses

- systematic evaluation of the situations in different countries on the basis of which a political dialogue can be conducted with the partners of the Austrian Development Co-operation Programme;

- drawing up programmes for various countries;

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[14] Since the 1990-1992 Three-Year Programme, more attempts have been mad to orient the Three-Year Programme towards women/gender-specific aspects.

- project work – both in the area of education and public relations as well as foreign projects under the Austrian Development Co-operation Scheme.

The ***Three-Year Programme 1999-2001*** which was submitted to the Council of Ministers in December 1998, states the following

> *"The Austrian Development Co-operation Programme will therefore increasingly promote measures enabling women to participate actively in economic and social life on equal terms with men.*
>
> *To this end, programme and project proposals will be examined more closely than before for their impact on the role of women and men in the development process."*

The Austrian Development Co-operation Programme therefore takes *an* ***integrated approach*** towards equality between women and men. Aspects such as unequal social and economic conditions, chances and opportunities for women and men will increasingly be taken into account in sectoral policies and programmes.

Programming at national level, particularly for countries on which Austrian Development Co-operation is focused, provides for co-operation at ***four levels***:

- support in the drafting and implementation of *national equality plans*, and co-operation with and integration of public authorities and departments of ministries in heightening awareness of gender aspects in different fields;

- identification and promotion of *local capacities* in the area of gender training and gender-sensitive project management and advice;

- promotion of *women's organisations* and *measures* which directly support women;

- *evaluation* of all projects based on the "criteria for assessing equality of women and men".

A ***set of criteria*** has been developed which are to be applied to projects. After questions which address the different aspects and possibilities for project implementation have been answered, equality enhancing measures are to be conceived in order to assure quality and sustainability.

The Austrian Development Co-operation Programme is currently engaged in different ***women-related projects*** in the following countries: Nicaragua, Western Sahara, El Salvador, India, Mozambique, Uganda, Namibia, South Chile, Tanzania and Ethiopia. These projects mainly focus on the training and retraining of women and their participation in the democratisation process at a local and regional level. The main aim is to heighten the awareness of society as a whole with regard to the full participation of women on equal terms in all spheres of civil society and in decision-making processes.

In *Ethiopia*, for example, financial support totalling US-$ 80,000 was given for the organisation and implementation of a 12-day Women's Conference in Mekelle/Tigray in September 1997. The goals of the conference were to draw up bills aimed at harmonising the Ethiopian civil and criminal law system with the human rights guarantees for women defined in the new Ethiopian constitution, to elaborate the principles which will allow the religious and cultural characteristics and interests of the Ethiopian peoples and ethnic groups to be taken into account in future legislation and to disseminate the deliberations and findings of the conference with a view to supporting and strengthening women's initiatives at the local and regional levels.

Granting Asylum

The ***Asylum Act*** of 1997 entered into force on January 1st, 1998 (Federal Law Gazette Number 1045), At the initiative of the Ministry of the Interior, the decision was taken to define the ***gender-specific persecution*** of women as a ground for granting asylum in accordance with the Geneva Convention.

In this context it should be pointed out that some states have meanwhile recognised the threat of *genital mutilation* of girls and women as a ground for granting asylum and that Austria, too, is currently considering the adoption of this approach.

Furthermore, ***support is given at the federal level*** to take into account the specific situation of women who are being looked after by federal institutions when planning accommodation for them. Co-operation exists with non-governmental organisations which look after women and subsidies are available for institutions supporting refugees and in particular helping women in emergency situations.

ARTICLE 4

Special Measures Aimed at Accelerating De-facto Equality

Article 4, Number 1)

Embodiment in the Constitution

As pointed out earlier, the Amendment to Article 7 ***of the Austrian Federal Constitution*** emphasises the following:

„The Federation, the Provinces and the Communities commit themselves to de-facto equality of men and women. Measures aimed at promoting the

de facto equality of women and men, particularly through the elimination of any inequalities that actually exist are admissible.[15]

Thus, an important step has been taken by Austria towards implementing this vital Article of CEDAW.

Plans for the Advancement and Promotion of Women

In order to accelerate the de facto equality of men and women, plans for the advancement and promotion of women were drawn up by the individual federal ministries in accordance with the Federal Equal Treatment Act. These plans state that women are to receive preferential treatment as regards participation in training and retraining programmes, which will qualify them to take on higher-level positions. In areas in which women are under-represented, women are to be given a priority in recruitment promotion, provided that they are not less qualified than the best-qualified male candidate. Women are defined as being under-represented if their share in the number of permanent staff in the relevant group or their function in the area of competence of the relevant public authority is less than 40%.

Article 4, Number 2)

In the "Amendment to the Maternity Protection Act" of 1995 it is emphasised that the provisions relating to the ban on employment contained in the Maternity Protection Directive 92/85/EC are not regarded as a discrimination.[16]

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[15] See remarks on Article 2, Letter a).

[16] See comments on Article 11, Number 2, Letter d).

ARTICLE 5

Overcoming Stereotyped Roles of Men and Women

Article 5, Letter a)

Combating Violence in the Family and in Society

1. Politically Binding and Further Measures

The resolution passed by the Federal Government in 1994 for an ***"Action Programme Against Violence in the Family"*** constitutes the background for the measures adopted in this area. With this resolution a politically binding fundamental consensus was laid down as the basis for further reforms, which can be expressed broadly as follows:

> *"Although the demand for preserving the intimacy of the domestic sphere must, in principle, be respected by the State, this demand ends where state intervention is required in order to protect the physical integrity, particularly of socially or physically weaker family members."*

Although the reform project aims at ending violence directed against any family member, in a first step attention was particularly focused on violence against women. The further stages of implementation were prepared by ***four working groups***, which put forward proposals for legislative and organisational measures in the areas of criminal law, civil law, police intervention and women's support centres. [17]

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[17] The legislative measures implemented through the adoption of the "Federal Act for the Protection against Violence in the Family" - Federal Law Gazette Number 759/1996, which came into force on 1 May 1997. See comments on Article 2, Letter g).

In the past few years Austria stepped up its efforts to identify the extent of violence directed against women and children. These efforts were summarised in the ***"Federal Government's 25-Point Action Programme Against Violence in Society"*** of September 1997.

In particular, these activities included the following:

- extension of victim protection facilities
- working with violent men (with perpetrators)
- amending sexual criminal law, human trafficking, weapons law
- training and research
- raising public awareness and intensified networking (anti-violence campaigns)
- violence in the media

At the beginning of 1997, an ***Advisory Board on Fundamental Questions Concerning the Prevention of Violence*** was set up within the Federal Ministry of the Interior. On this board, apart from the responsible ministries, NGOs are also represented. This Advisory Board acts as adviser to the Federal Ministry of the Interior in promoting projects aimed not only at preventing violence, but also at drawing up general strategies for more effective co-operation between the law enforcement agencies and the organisations which look after victims. This Advisory Board on the Prevention of Violence has also taken on the task of

reporting on the ongoing implementation of the Federal Government's 25-Point Action Programme.

As violence in the family tends to escalate particularly during holidays, the Federal Minister for Women's Issues and Consumer Protection made Christmas 1998/1999 the starting date for launching a large-scale ***Anti-Violence Campaign***. In a TV spot attention was drawn to a special helpline which was specifically set up to provide to battered women and female victims round-the-clock initial information free of charge about support centres available to them, such as homes for battered women and women's counselling centres. The frequent use of the helpline even beyond the holiday period showed that there was dire need for establishing in the long run a first contact point which offers advice and assistance in cases of violence in the family. Upon the initiative of the Federal Minister for Women's Issues and Consumer Protection a nation-wide ***clearing house*** was set up and financed out of the Minister's budget. It was entrusted with the task of running the helpline over an extended period.

2. Research

The phenomenon "violence in the family" and the reactions of public institutions to acts of violence in the home have so far not been sufficiently researched from a statistical and empirical point of view. The question as to whether violence against women has increased or decreased during the past years and decades can therefore not (yet) be answered.

A ***study*** commissioned by the Federal Minister of the Interior assessing the impact of the Act on Protection against Violence which was concluded in April 1999, demonstrates that the reform has so far been successful. In particular, there is great satisfaction on the part of the law enforcement agencies in the possibility of taking concrete measures to end violence which has been positively evaluated. Correspondingly, these new powers

have frequently been employed (see also the list below). In the period between January 1, 1998 and December 31, 1998 the law enforcement agencies took advantage of their new powers in 2.673 cases. Internal audits of police intervention in 123 cases resulted in the lifting of orders. On 252 occasions the law enforcement agencies registered cases where the stated instructions were disregarded, and in such cases administrative penal procedures were set in train; sometimes several such procedures are instituted against one and the same perpetrator.

3. Awareness Raising and Training

In co-operation with WAVE (Women Against Violence Europe) and the EU "Daphne" project, the Austrian EU Presidency organised an ***experts conference*** on ***"Police Combating Violence against Women"*** ,which was held in Baden near Vienna from November 30 to December 4, 1998.. As a result of the conference, which was covered extensively by the media, participants prepared a series of standards and recommendations on measures to combat male violence against women, particularly in the home.

In the period of reporting, a female psychotherapist ran more than ten seminars for criminal investigation agents on the issue of ***"Rape - Coming to Terms with the Truth - How to Approach Victims".*** The purpose of these seminars was to make participants understand rape victims' difficulties in coming to terms with the truth from a psychological point of view, and to teach them about the proper treatment of victims.

Since 1995, two-day seminars on ***"Violence in the Family"*** have been obligatory for ***police training*** throughout Austria. The seminars are organised by local representatives from homes for battered women in co-operation with the Federal Ministry of the Interior. They form an integral part of both basic and advanced in-service training for security and criminal investigation agents. Police officers in training are prepared for

their tasks and responsibilities when intervening in cases of "violence in the family", they learn to comprehend the complex psychological and social situation of victims and perpetrators and are given instructions on how to act efficiently and show sympathy when performing their duties.

Beginning in 1999, four ***workshops*** will be held on the issue *of* ***"Protecting Female Migrants Against Violence"***. The purpose of these two-day events, which are financed by the Federal Ministry of the Interior, with a third of the participants being female police officers is to look at real incidents, gather information and develop strategies with the help of law enforcement agents, youth organisations, counselling offices for refugees and migrants, settlement agencies and counselling offices for women, and to establish a network of local contact persons.

Upon the initiative of the Federal Minister for Women's Issues, ***draft plans*** were made for advanced training on ***"Violence Against Women and Children"***, following which, in 1996/97, two advanced training courses were held on the issues of ***"Sexual Violence against Girls and Boys"*** *and* ***"Acting to Combat Violence against Women"***. Both projects were partly financed by the Federal Minster for Women's Issues.

These seminars, the concept behind them and the topics they dealt with, were the first of their kind in Austria. Both of these events - ***"Acting to Combat Violence against Women"*** *and* ***"Violence against Women and Children"*** –served the purpose of establishing contact with persons representing the different professions concerned and of promoting the idea of integrating the courses into basic and advanced training for these professions.

In 1998, as a follow-up to the series "Acting to Combat Violence against Women", **a number of comprehensive *seminars*** were held throughout Austria, for staff of women's counselling centres and for those working on

women's projects. Additional training courses on "Violence Against Women" for this target group are planned for 1999.

In addition, special seminars were organised under the EU STOP Programme in 1998, the purpose of which was to train federal and rural officers on how to intervene in cases of trafficking in women. At the national level, these seminars were co-financed by the Federal Minister for Women's Issues and the Federal Minister of the Interior.

4. Information and Public Relations

In 1998, a new and revised edition of the comprehensive information package ***"Combating Violence against Women and Children"***, first published in 1993, was produced and distributed free of charge to all relevant centres and offices. This project, which addresses itself primarily to multipliers, was commissioned and financed by the Federal Ministry for Women's Issues.

The Federal Ministry of the Environment, Youth and Family Matters has also committed itself to dealing with the issue of ***"Violence against Children"***.

In 1995, a nation-wide ***opinion poll*** carried out to identify medical doctors' experience with cases of violence against women and children, demonstrated a lack of knowledge about and of how to treat victims of violence. Consequently, a manual was compiled in co-operation with medical doctors, to assist this target group in diagnosing and categorising symptoms in physically and/or sexually abused children. The manual also includes examples of how to intervene as well as a list of addresses of contact points.

In September 1996, the ***touring exhibition "A Safe Place? - Sexual Violence against Children"***, sponsored by the Swiss Office for Equality of Women and Men, was officially presented during an experts' meeting

on ***"Recognising, Understanding, Helping"*** and subsequently put on show in Vienna. The exhibition will be on tour at several locations in Austria up to mid '99.

In November 1997, an inquiry was conducted on the topic ***"Afraid of Abused Children - Child Protection in the Context of Medicine, Youth Welfare and the Justice System"***, the aim of which was to introduce models of dealing with violence against children, e.g. "the child protection group", to impart practical knowledge on child protection, to discuss the information collected on the different approaches offered by the professional groups involved and to examine the legal framework applicable to the issues.

During this inquiry, two brand new information folders were also presented to the public: ***"Violence against Children - Recognising, Understanding, Helping"*** (target group: pedagogic professions) and "Violence against Children - Recognising, Understanding, Helping" (target group: medical professions). They include, amongst others, a check list of general tips on how to recognise significant behaviour in children and their parents/guardians.

Victim Protection and Intervention Centres

To complement the Act on Protection against Violence[18], measures have been introduced to promote the efficient co-operation of law enforcement agencies and civil courts, as well as to intensify co-operation with victim protection facilities. These victim protection facilities, or ***"Intervention Centres against Violence in the Family"***, were established with the idea of setting up networks for immediate and co-ordinated co-operation of all

[18] See comments on Article 2, Letter g).

institutions and/or individuals involved in cases of violence against women and/or children.

The first intervention centre against violence in the family was established in 1996 upon the initiative of the Federal Minister for Women's Issues. In close co-operation with the Federal Ministry of the Interior the preconditions were subsequently created for establishing a ***nation-wide network of intervention centres*** in the long run. Currently, there are six of these agencies operating in five of Austria's nine Province Capitals. The intervention agency in Vienna which was opened in February 1998 is oriented specifically towards assisting and protecting trafficked women[19]. With these reform activities Austria is pursuing a multi-disciplinary approach. The intervention centres against violence establish contacts with victims especially after police intervention and offer them active support and assistance. Law enforcement agencies are authorised to pass on relevant data to these intervention centres. In addition, the intervention centres co-ordinate the co-operation between all the authorities involved (such as the police, courts, youth welfare offices) and women's support facilities, especially homes for battered women. Currently, there are twenty-one of these institutions in Austria, offering protection and refuge to abused women and children.

Sexual Violence - Victims and Perpetrators with Disabilities

The Federal Minister for Women's Issues has commissioned and financed two studies on the topic of sexual abuse involving victims and/or perpetrators with disabilities, i.e. the study "Because it Hurts When I Am

[19] For this and other measures relating to the support of female migrants who are victims of trafficking or of other acts of violence, see Article 6.

Forced - Sexual Exploitation of Girls and Women with Disabilities" (1996) and "Sexual Violence in the Lives of Persons with Disabilities, Boys and Men with Disabilities as Victims and Perpetrators" (1997). The latter can be seen as a follow-up to the first study and is based on its findings, which revealed that 13% of men who sexually exploit girls and women with disabilities are themselves disabled, making them the third largest group of perpetrators.

The Federal Minister for Women's Issues and Consumer Protection convened ***experts meetings*** on these issues, in September 1996 and in June 1998, to discuss, amongst others, measures and strategies to improve the living conditions of persons with disabilities and to find ways of working with disabled victims and perpetrators.

Article 5, Letter b)

Duties of Care

As of January 1, 1998, employees with long-term care duties for close family members, resulting from the duty to provide assistance, in accordance with Article 14, paragraph 2 of the Work Contract Adjustment Act in its version of the Act of Amendment of Labour and Social Insurance Law of 1997, now have the option to ***work reduced hours*** subject to their employers' agreement. Close family members are spouses and persons directly related to the employee, adopted children and foster children, or persons co-habiting with the employee. A joint household is not a prerequisite for working reduced hours. Employees may request a return to normal working hours, at the earliest two months after but no later than four months subsequent to cessation of their care duties. Provisions have been made to ensure their severance claims are not unduly curtailed by the fact that they were, at some point, working part time. In the event that the employee had been working reduced hours for less than two years at

the time of termination of the work contract, the working hours effective prior to the part-time agreement will be used as a basis for the calculation of severance pay. In the event that the employee had worked reduced hours for more than two years, the average working hours effective in the years of employment relevant to severance pay will be used as a basis of calculation, unless otherwise agreed[20].

Fair Division of Labour within the Family

The principle of equal partnership in marriage has been embodied in Austrian law since 1975. The division of labour within the family agreed to on marriage, however, in many cases remains unchanged for the entire duration of the marriage, regardless of changed circumstances. In other words, many married couples only partially adhere to this principle, often because of differences in income and/or assets and also because housework is still largely performed and family obligations are mostly ***met by women*** who, as a consequence, must often ***restrict*** or give up gainful employment.

To promote fair division of labour within the family and to set off a process of awareness raising, the Federal Minister for Women's Issues launched a campaign in late 1996 under the title ***"Real Men go Fifty Fifty"***. The purpose of this campaign, which was given a commercial slot on TV, was to encourage men to take on a more active role as husbands and fathers within their family, to project a new image of the family based on partnership in all family matters and to draw public attention to the fact that women generally bear a multiple burden, in their careers and in the home.

[20] See comments on Article 11, Number 2, Letter c).

The Amendment to Matrimonial Law of 1999, Federal Law Gazette, Number 125/1999 which will enter into force on January 1,2000 contains a clear definition of the principle of organising married life on the basis of partnership by stipulating that the common tasks, especially gainful activity, running the household and the bringing up of children are to be shared by the spouses with the aim of reaching a balance in the extent to which each of them contributes to these tasks. A spouse who does not engage in gainful activity continues to be responsible for running the household. However, it is clearly stated in the Amended Act that the gainfully active spouse as a matter of principle has the duty to assist in the household and with childcare.

For the first time, the so-called „dynamisation" of marriage as a life partnership has been enshrined in law. An agreement on the division of labour within the family concluded by mutual consent of the spouses can be unilaterally changed by one spouse, unless an important need of the other spouse or the children stands in the way of such a change or, although such a need exists, personal reasons, especially the wish to engage in gainful employment are considered as carrying greater weight.

With this amendment, the legislator has recognised the right of each spouse to self-development and self-actualisation, and taken into account that the assignment of roles to the spouses is not binding forever and changes to existing role patterns are permissible without constituting a fault that could be claimed in divorce proceedings.

This is mainly to increase women's chances of re-entering professional life without being stigmatised as neglecting their duties in the home.

"Actions Speak Louder Than Words" is a nation-wide campaign designed to motivate public and private ***enterprises*** into establishing equal chances for female and male employees with the help of specific programmes for

the advancement of women. The campaign is supported by the Federal Minister of the Environment, Youth and Family Matters[21].

ARTICLE 6

Overcoming Trafficking in Women and Exploitation of Prostitution of Women

Protection and Support of Victims of Trafficking in Women

Currently there are approximately 600 female prostitutes registered in Vienna. The total number of prostitutes in Vienna is estimated at between 6,000 and 8,000. About 80% of clandestine prostitutes are ***non-Austrians***. The number of registered prostitutes has been decreasing for some years. The total number of punters per night is estimated at 15,000 for Vienna alone. These figures clearly demonstrate the enormous demand for sexual services. On the one hand, prostitutes must comply with the laws on prostitution, while on the other hand, they must abide by aliens laws, which because of the type of work they perform, do not grant them residence status.

For some years now, Austria has been actively committed to combating trafficking in women and to developing suitable measures. An initiative was launched by the Federal Minister for Women's Issues in co-operation with the Federal Minister of the Interior to open a ***victim protection facility*** in Vienna specifically oriented towards supporting trafficked women in psychological, health, legal and family matters and to facilitating their return and making a living in the source countries. In addition, these persons are granted ex-officio limited ***residence permits*** for the purpose of prosecution and assertion of their claims under civil law. Provisions for

[21] See comments on Article 11, Number 2, Letter a).

these limited residence permits are set forth in Article 10, Para.4, last sentence of the 1997 Aliens Act.

Migrants suspected of having been made victims of an offence against their right to sexual self-determination must be informed of this passage in the Act. Facts constituting an offence include trafficking (Article 217 of the Criminal Code), exploitation by means of marriage trade or at work, "exploitative trafficking", in accordance with Article 104a of the Criminal Code, or "sexual coercion„, in accordance with Article 202 of the Criminal Code. The new statutory definition of the crime "exploitative trafficking", which became effective on March 1, 1997, in combination with the provisions against trafficking under criminal law, provides a more effective means of combating organised crime and gangs who often use false pretences to persuade women to trust them.

Information, Training, Exchange of Experience

Austria has also become active in gathering and disseminating information on the background and the reasons for trafficking in women. It has been generally recognised that this phenomenon cannot be eradicated by sanctions under criminal law alone. It is essential to have sound knowledge of the structural causes and mechanisms of trafficking in women, as well as of living conditions of women in source countries, if the situation is to be changed and if the current trends are to be reversed. Activities organised for the above purpose are to stimulate active co-operation between law enforcement agencies, international and national officials, politicians and NGOs.

To this end, an ***international meeting*** on the topic of „Migrants and the Sex Industry" was held on May 9, 1996, upon the initiative of the Federal Minster for Women's Issues. In conclusion, a comprehensive report was published on the situation of migrant- women in Austria who have been made victims of trafficking. As a follow-up to the report, a number of

meetings were organised on this topic up to the end of 1998 which were supported by the **Federal Minister for Women's Issues and Consumer Protection**. The last one a study day on ***human rights education*** with trafficking in women being a central issue, which took place on December 9, 1998 was organised in co-operation with the UNIFEM committee in Austria.

Austria actively supports ***international endeavours*** in this field. To this end, the Federal Minister for Women's Issues and Consumer Protection participated in a conference of EU ministers in The Hague in 1997, where the Action Plan for Combating Trafficking in Women was adopted. During the Austrian EU-Presidency she organised an international ***East-West conference*** on the same topic which was held in Vienna on October 1, 1998. With reference to the Hague Ministerial Declaration of April 1997, the discussion focused on the need for intensifying and networking all those involved in the source, transit and destination countries. In the debate, not only the EU dimension, but especially the Eastern European perspective was analysed. After this conference, a two-day NGO expert meeting was held, which primarily dealt with the issues of networking and exchanging experience.

Further to this, the „STOP Programme" - a project financed primarily by the EU - has been running several ***training courses*** for police officers to promote sensitive treatment of victims of trafficking. Representatives from Central and Eastern European countries have also been invited to participate. One of the courses was held in Hungary in September 1997, and another one in Vienna, in December 1997. At a conference prepared for the 75th anniversary of IKPO INTERPOL in Vienna in October 1998, the issue of trafficking in humans was also raised and discussed from the point of view of ***international police co-operation***.

Under the "STOP" Programme, ***three seminars*** were held in 1998 on the topic „Trafficking in Women - Combating, Prevention, and Victim Protection". The seminars were organised by LEFO - the association of Latin American women emigrants to Austria, which in its work also focuses on these same issues.

Granting Additional Work Permits

The Federal Minister for Women's Issues and Consumer Protection and the Federal Minister of Labour, Health and Social Matters have committed themselves to improving the chances for women migrants in Austria to ***make a living on their own***. With the amendment to the Federal Regulation on Exceeding Maximum Numbers, which came into force in 1998, it is now possible for foreign nationals settled in Austria, who because of imminent violence or violence already suffered at the hands of their spouses can no longer be reasonably expected to co-habit with them, to apply for work permits outside the national quota, provided they meet certain other requirements, such as having been legally resident in Austria for a minimum of eight years.

Measures against Sexual Exploitation of Children

In addition, Austria actively promotes measures for the protection of children in less affluent countries affected by ***sex tourism***. Following the Criminal Law Amendment Act of 1996, offences, which are defined in penal law as sexual offences, and which were committed against children abroad may now be prosecuted under Austrian legislation, irrespective of the laws prevailing at the scene of crime, provided the perpetrator is an Austrian citizen normally resident in Austria.

ARTICLE 7

Overcoming Discrimination against Women in Politics and in Public Life

Article 7, Letter b)

Women in Political and Public Functions

The actual numbers of women holding positions in politics may serve as a reliable ***yardstick*** for women's participation in society as a whole. There is no doubt that, as women's level of education rises and as they achieve access to the world of gainful employment, the number of politically active women, both at the institutional and the autonomous level, is also increasing steadily.

In recent years, the public image of female politicians and women in general has been influenced significantly by the fact that they are increasingly ***nominated*** high up or at the top of parties' lists of candidates or are elected as chairpersons of their parties (with the Green Party from 1994 - 1996, with the Liberal Forum since 1993).

Four of the sixteen ***members of government*** currently in office (mid-1999) are women, three of them as Federal Ministers and one as a State Secretary. Of the 21 delegates to the European Parliament, **13** are men and **8** are women. The proportion of women in the Lower House (183 members altogether) is approximately **28** per cent.

At the ***Province level*** figures for political representation of women vary substantially. It is highest in the Vienna Province Government with 34% and in the remaining eight Federal Provinces it is between 6% and 26%. Styria, since 1996, is the first Federal Province in Austria to have a woman heading its government. At the ***local government level***, in early 1998, only 36 (or 1.5%) of the 2359 mayors in Austria were women. In

1998, for the first time, two women presented themselves as candidates for the office of ***Federal President***.

There has been a ***remarkable increase*** in the number of women in higher legal positions. In 1994, and again in 1997, a woman was appointed judge of the ***Constitutional Court of Law***. Almost 30% of judges' positions, one fifth of state prosecutors' positions and one sixth of all leading positions in the judiciary were occupied by women in 1997. Meanwhile, eight women have been appointed as notaries public. With nearly two thirds of all candidates for the office of judge being women (1997), the proportion of women in the judiciary as a whole can be expected to rise further and continuously.

Women and National Service

One sphere in which women traditionally had not had access to public offices was the Austrian Federal Army. Women did not have a chance to do national service are to make a career as military officers. To this end, Austria went as far as to express its reservations concerning Article 7, Letter b, of the Convention, which refers to military service.

The situation changed drastically when the Act on the Training of Women in the Armed Forces came into force on January 1, 1998. It stipulates that women may serve a one year ***training course*** similar to that of men's national service. As military service is not compulsory for women, participation in these courses is voluntary and may be terminated at any point in time. Women who have completed their training are entitled to sign up as professional soldiers and may even make a career as military officers.

For this enterprise to take on concrete form, several amendments had to be made to the Defence Law, while ***labour and social insurance laws*** had to be adapted so as to create equal conditions for women and men

and to provide for adequate protection of women. The main focus of these ancillary measures was placed on ***amending the Job Security Act***, which puts women's training service on an equal footing with men's military or alternative service. Women are granted special protection against dismissal by their former employer, and measures have been taken to cover the event of a pregnancy during training.

Austria has meanwhile withdrawn the reservation regarding CEDAW mentioned above.

Referendum on Women

- In April 1997 644,665 voters (of 5,772,939 women and men who had the right to vote) signed the „Referendum on Women" which was initiated by the Independent Women's Forum and thus endorsed the demand for a number of measures to eliminate discrimination against women in politics and public life, which the initiators regarded as imperative (716 BLG Number XX:G)[22]:

- The equality between men and women is to be enshrined in the Federal Constitutional Law.

- Enterprises are to receive subsidies or to be awarded public contracts only if they ensure that women are represented at all levels of the hierarchy corresponding to their share of the population.

- Efforts must be undertaken to achieve equal pay for work of equal value. To support this, a minimum income of ATS 15.000/month before tax must be guaranteed, to be adjusted annually in line with the cost-of-living index.

[22] This Referendum on Women was also supported by a large number of female politicians.

- Part-time employment and minimal employment must be considered equal to full employment under labour and social insurance law.

- In assessing women's entitlement to relief payments and equalisation payments, their partners' income is not to be taken into account.

- Equality of women must also be supported by government measures on education. The Federal Government must draw up and publish annual gender-specific statistics on careers and education.

- Every person has the right to reconcile having a career with having children. It is the task of law-makers to ensure that all-day childcare facilities are available for children of all ages. Child minders are to be trained and their protection under labour and social insurance legislation is to be ensured.

- Single mothers or fathers should receive parental leave benefits for two years. Parents should be legally entitled to work part-time until their children have reached school age and their right to return to full-time employment should be guaranteed. The ban on dismissal, after the expire of parental leave, should be extended to 26 weeks.

- Every person has the right to receive a basic pension which must not be lower than the subsistence level. If one of the spouses/live-in partners is not gainfully employed, their pension contributions must be paid by their respective partners. Periods of childcare and care of family members are to be credited towards pension entitlement thus resulting in higher pension benefits.

- The regular retirement age for women is not to be increased any more before real equality has been achieved in all relevant areas.

The fundamental concern of the Referendum on Women was considered as a clear mandate by the Federal Government to swiftly carry on

concrete efforts to implement measures destined to achieve equality. So far the following steps have been taken:

- In spring 1998 the equality of the sexes was enshrined in the Austrian Constitution through the Amendment of Article Seven of the Federal Constitutional Act of 1929. Hence the principle of equality also applies to measures aiming at the de-facto equality of women and men. This definition of a national objective also clearly refers to the admissibility of affirmative action for the advancement of women („quota").

- In early 1999, supplementary guidelines were adopted on the awarding of public contracts in accordance with the Austrian Standard A 2050 to companies taking measures for the advancement of women. As a result, all ministries headed by Social Democrats will henceforth make measures for the advancement of women a prerequisite for awarding public contracts. In addition, the Amendment to the Work Systems Act which entered into force on May 16, 1998, sets forth the obligation of the owners of enterprises to consult shop stewards or works councils on in-company measures for the advancement of women.

- Thanks to the **Pension Reform of 1997** persons in minimal employment are now fully covered by social insurance. Part-time work was placed on a par with full-time employment in 1993.

- By making available a total of ATS 600 million each for the years 1998 and 1999 and stipulating that the Federal Provinces and local governments must raise 100% of the sum received from the federal budget, the Federal Government created an incentive for the further extension of childcare facilities in Austria. To date, roughly 19.000 additional places in kindergartens and day-care centres have been created. Under the transnational „Cinderella" project, a proposal was made to elaborate a job profile for childminders and work out suitable curricula for their basic and further training so as to introduce a higher

degree of professionalism into the care of children outside the family (see Article 11, Number 2, Letter c).

In a constitutional law, the different pension ages of women and men were defined as admissible until the year 2018. Within this period, the disadvantages of women in social, family and economic life must be further reduced. In order to monitor progress, the Federal Government will submit bi-annual reports on measures taken to the Lower House of Parliament.

ARTICLE 8

Overcoming Discrimination against Women at the International Level including International Organisations

Austria is represented in all the major ***international bodies*** engaged in women's issues, in the further development and safeguarding of the rights of women. To emphasise its strong commitment, it is sending highly qualified women to participate in these bodies. For instance, an Austrian woman was elected to the INSTRAW Advisory Council for the 1996 to 1999 term of office.

The Commission on the Status of Women (CSW) established a working group based on the recommendations prepared by the 4th World Conference on Women in Beijing in 1995, the purpose of which was to prepare an Additional Protocol to CEDAW to guarantee the right to make a personal complaint and to call for an investigation procedure in the case of violation of the rights of a woman or a group of women. This working group was also chaired by an Austrian woman. At the 43rd Meeting of the UN's Commission on the Status of Women the Additional Protocol to the

Convention on the Elimination of Any Form of Discrimination Against Women was adopted in March 1999 after several years of negotiations.

This Protocol gives women who had suffered a violation of their human rights, the right to make an individual or collective complaint as granted under other human rights conventions, after having gone through all national stages of appeal, and offers international human rights organisations an option to take action on behalf of the woman/women concerned. With the adoption of this important Additional Protocol an essential step was taken towards the implementation of the Beijing Platform for Action.

On April 1, 1999, 45 (18%) of the 256 leading positions in the Austrian Foreign Service, both at home and abroad, were held by women. 76 male ambassadors and 5 female ambassadors (6.2%) were in office either at bilateral embassies or at permanent representations with international organisations. Of the remaining 32 positions as head of office abroad (consuls, generals, heads of cultural institutes), 6 (18.8%) are currently occupied by women.

The Federal Ministry of Foreign Affairs is fully aware that these figures are still well below the quota of 40% provided for under Austrian law. It has therefore expressly invited all female members of staff to ***apply for vacant leading positions***. Unfortunately, past traditions still make themselves felt as the share of women in higher service grades of the Ministry is still disproportionally low. In an effort to raise the percentage of women, the Federal Ministry of Foreign Affairs, in its promotional events on the Foreign Service, is encouraging women in particular to apply for admission to higher-grade service. In 1998, the share of female contract staff in higher-grade service was already 35%, in senior service it was as high as 54%. This new admission policy will, of course, only in the long term have repercussions on appointments to leading positions.

Article 10

Elimination of Discrimination against Women in Education

Despite significant upwards trends - which have manifested themselves since the mid seventies - the standard of education of women and girls is still below that of men and boys.

Article 10, Letters a, b, c)

Legal Framework and Educational Policies[23]

The legal prerequisites concerning career counselling, admission to classes, acquisition of school-leaving certificates, etc., with a view to equality of women and men, have been incorporated into the Austrian legal system, and have thus been ***formally fulfilled***. ***In practice***, however, serious difficulties are encountered which are largely due to the ***mode of enforcement*** but also to the rigidity of society as a whole (e.g. prejudices, adherence to outdated role stereotypes, etc.)

To bring about any changes at the formal level, amendments need to be made to the ***laws governing school education*** (regulations, curricula). Also, serious efforts need to be undertaken to raise people's awareness of, and sensitivity to, the issues at stake.

One of the measures launched in this context by the Federal Ministry of Education in recent years, was to introduce, in the scholastic year 1994/95, "Gender Equality" as a ***principle of education*** to the curricula of academic and vocational schools as well as to teacher training curricula. (Order of Principle, Number 15.510/60-Pres. 3/95, Circular Letter of the Federal Ministry for Education, No. 77/1995).

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[23]This also applies to Article 10, Letters d) and g).

The amendment to the regulation on the ***panels of experts for teaching aids*** (Federal Law Gazette, Part II, No. 248. July 29, 1998) is also of fundamental importance in this context. When appraising ***school textbooks*** these panels must now also take into consideration "Equal Treatment of Women and Men and Education towards Developing Fairness in Shaping Society".

As from 1990, an ***"Information Leaflet on School Education and Equality"*** has been available to all schools, teachers and supervisory staff at schools, as well as to teacher training colleges and institutions for the advanced training of teachers. This leaflet contains useful information on studies, brochures, events and contact addresses, as well as a number of articles on gender-specific issues related to schools.

Implementation of the ***Action Plan 2000 - 99 Measures for the Advancement of Equality*** in schools and adult education centres began in 1997. The Plan, which was commissioned by the Federal Ministry for Education and Cultural Affairs, is based on the "Beijing Platform for Action" prepared at the 4th World Conference on Women in 1995, which the participating governments have undertaken to put into practice. It contains a comprehensive catalogue of targets and measures intended to bring about a fundamental change towards equality of women and men.

Additional measures include the introduction of ***advanced training courses*** for teachers, establishment of ***career guidance projects*** with special emphasis on girls, plus a wide range of ***information and sensitising activities***.

The increase of ***violence at school***[24], real or subjectively perceived as the case may be, as a phenomenon affects girls, boys and teachers to a

[24]See also comments on Articles 2 and 5.

lesser or greater degree. The Federal Ministry of Education and Cultural Affairs has published an information package for teachers to heighten their sensitivity towards this issue and is organising prevention programmes for students which are made possible primarily with the support of private associations.

Girls' Access to Apprenticeships and Vocational Training Facilities

Of the approximately 120.000 apprentices in training in 1996, only 31% were female - between 1990 and 1996, the share of girls in apprenticeships dropped from 34% to 31%. Overall, there is a continuous downward trend in the number of persons opting for apprenticeships: in 1990/91, 47.4% of young persons chose an apprenticeship in their 10th grade, by 1996/97, that share had dropped to 38.4% (= 145,516 apprentices in 1990, compared to 119,932 apprentices in 1996, see also Report on Vocational Training, 1997).

In 1997, for the first time since 1991, an increase in the number of young persons entering apprenticeships was noted, as against with the previous year.

Gender-specific concentration on ***certain occupations*** (there is a choice of approximately 260 apprenticeable trades) is particularly noticeable with female apprentices. 80% of female apprentices are concentrated in the ten most popular fields of training - the trade most frequently chosen is that of "retail saleswoman", which 29% of female apprentices train for, followed by "hairdresser and wigmaker" and "office merchant" with 14% each.

By comparison, only 56% of male apprentices are concentrated in the ten most popular apprenticeable trades for men, with "car mechanic", "carpenter" and "electrician" topping the list. (Between 9% and 10% of male apprentices choose these occupations)

To improve this scenario, the Labour Market Service set out, in 1995, to pay increased attention to the ***situation of female adolescents*** and their specific concerns when choosing an occupation.

An analysis of available apprenticeships registered with the Labour Market Service, found that access for girls to the apprenticeship market is even more restricted than that of women to the labour market in general. While boys can choose from nine out of ten apprenticeships available, girls can choose from no more than six out of ten.

In 40% of all available apprenticeships, enterprises expressly require male apprentices.

Based on these data, the Labour Market Service defined the ***annual target for 1996***, which was to increase the share of gender-neutral apprenticeships and thus facilitate girls' access to apprenticeships outside traditionally female oriented trades (which are: trade and transport, tourism, clerical jobs and occupations in the health sector).

Also in 1996, the directives on subsidising apprenticeships were revised with the intent to ***promote apprenticeships*** **for girls** in traditionally non-female occupations. Enterprises about to train girls in an apprenticeable trade where women are represented with less than 40%, may apply for a subsidy for the entire duration of the apprenticeship.

Further Development and Reform of Co-education at Schools

The education of girls and boys in mixed classes has become ***standard procedure*** in public and private schools throughout Austria. (In 1975, co-education was anchored in the School Organisation Act). Approximately 3% of all Austrian schools are still run as single gender schools. 'All girls' or 'all boys' schools in the compulsory schooling range have been all but abolished, while a limited number of vocational schools are still run as such. Almost one fifth of teacher training colleges - in particular training

colleges for kindergarten teachers - are accessible to girls only. Agricultural schools constitute a special case, with 44% being single-gender oriented, particularly towards girls.

While most schools educate both girls and boys, this is not true to the same extent for the individual subjects taught. In textile and technical handicrafts during compulsory schooling, for example, co-education has yet to be introduced. (Students may choose between textile and technical handicrafts from grade 5 to grade 8). Although in theory girls and boys may apply equally for either, less than 10% of girls opt for technical handicrafts and only 2% of boys opt for textile handicrafts.

Since the early eighties and the publication of first relevant studies, the usefulness of co-education is ***increasingly being questioned***. Most of the research work and discussions in this context concentrate on the relations between girls and boys, on how they perceive each other, how girls and boys assess themselves, how they are assessed by their teachers, how teachers interact with students and vice versa. They examine curricula and teaching aids (textbooks in particular) as well as the didactic preparation of subject matter.

The aim of current ***education policies*** is not to reintroduce gender segregation by abolishing co-education and establishing single-gender schools, but to maintain the system of joint classes while ***reforming the principle of co-education*** as such. By introducing "Gender Equality" as a new ***principle of education*** - as a temporary measure in accordance with Article 4 of the Convention - Austria is making first efforts to establish a new type of co-education in line with the ***Action Plan 2000***.

Searching for new forms of co-education as part of a new ***"culture of learning"***, implies actively dealing with and respecting gender differences, and discussing them in class. The conditions for and mechanisms of gender-specific socialisation must be made apparent and dealt with

openly. Publishing studies on ***pilot school projects*** is used as an incentive for practising conscious co-education and as a motivation for schools to develop new forms of co-education.

School projects in this context include, amongst others: the setting up of a girls-only class at a secondary academic school, single-gender groups for some subjects, project supervision by teachers, school and class projects on gender-specific issues.

It has been found that as girls experience more freedom in all-girls classes/groups, they are better able to experiment with unconventional roles. Dominant roles usually played by boys are now taken over by girls. Accordingly, girls can now acquire behavioural patterns outside those typically attributed to women. Splitting of classes has also improved girls' learning situation and consequently their performance too. Teachers have noticed increased self-confidence and assertiveness in some girls, and girls generally acquire better skills of self-defence. It is strongly recommended that, similar to these all-girls programmes, all-boys work with male persons of trust is introduced to minimise the gender conflicts which might otherwise arise.

Awakening Girls' and Women's Interest in Technical Subjects[25]

One particular concern of the ***"Action Plan 2000"*** is to motivate girls and women to show a greater interest in ***modern technologies***. "Career orientation", "Girls and technology", "Opening career and life perspectives for girls and boys" are all part of this effort. Girls and women continue to be noticeably underrepresented in technical, crafts, and scientifically oriented training programmes and careers. Thus, the Ministry of Education is placing particular emphasis on information and awareness raising

[25]This also applies to Article 10, Letters a) and e).

activities and is seeking the support of associations and initiatives in providing concrete counselling and assistance for girls. With these efforts it is hoping to counteract the one-sided career choices girls are forced to make under the influence of socialisation: publications on career orientation are continuously revised and reedited, information and counselling activities are promoted at academic and career information events.

To increase the share of female students at ***secondary technical schools***, technology, computer and Internet courses designed especially for girls are held each year, campaigns are launched to draw attention to women in technical occupations (role model) and to encourage girls and women to train for technical careers. They are also designed to assist teachers, school administrators, students and parents in developing a greater sense of awareness of the issues to increasingly question gender-specific role stereotypes and to reduce prejudices.

To increase the number of girls at these schools and to improve the conditions for them, a series of measures will be developed on the basis of a ***survey*** on "girls at higher level technical colleges".

Article 10, Letter b)

The Situation of Women at Academies, Universities, Institutions of Higher Learning

Approximately 70% of students who have taken their matriculation examinations now ***enter universities***. The share of female university students has risen more rapidly than that of male students and is currently 48%. The share of women among university entrants has increased to 58%. Among university graduates (46%), however, the share of women is markedly lower. The inclination towards typically "female" or "male" courses is reinforced by previous education at higher-level schools. In the

technical fields of study (including mining technology) women continue to play a marginal role with a share of only 22%. One quarter of male university entrants enrol for technical courses; women account for only 6% of the enrolment figures, although this share has risen slightly over the past ten years. At the University for Agriculture in Vienna, the share of female university graduates is particularly high in the study fields of landscape planning and preservation (61%), food and biotechnology (45%) and agriculture (36%). Also, in the technical fields of architecture (36%), as well as zoning and regional planning (37%), more than one third of university graduates were women. The percentage share of women was almost negligible, however, with less than 5%, in mechanical engineering (2%), electrical engineering (1%), process engineering (4.8%), industrial engineering (1%), telematics (2.4%) and mechatronics (0%).

The Federal Ministry of Science and Research is pursuing strong efforts to expand women's influence in the area of university research while at the same time it is paying increased attention to supporting non-university research into women's and feminist issues. Back in the eighties, teaching assignments for research into women's issues were introduced for this very purpose, which have since been modified and are now being continued under the title "gender studies".

For equality of women and men to become reality, effective measures must be undertaken to raise public awareness of the issue. In 1997, on the occasion of "100 -Years of Women' Studies in Austria" the "Gabriele Possanner" state prize was introduced together with two prizes for scientific achievements, also under that name. They were first awarded in autumn 1997, to be repeated every two years.

At the ***Fachhochschulen*** (colleges for higher technical training), which have been on the increase since they were first established in 1994, the

percentage share of women depends very much on the content of the courses offered. In tourism, for example, the share of female students is as high as 65%, in economics it is 42%, in media and telecommunications it is only 26%, and in technical courses it is as low as 8%.

Teacher training colleges, colleges for social workers and for ***advanced medico-technical staff*** are very much a female domain. Three quarters of students are women, a proportion which has remained unchanged in the past 15 years.

The ***success rate*** of female students (42.3%) is lower by seven percentage points than that of male students. Gender specific differences are particularly noticeable with university graduates. The percentage of female university graduates in the overall population is 3.3%, compared to 6.3% for men, even though the growth rate for women is markedly higher than that for men. If one adds the students taking university related courses (e.g. teacher training courses), the resulting augmented rate for university graduates is 5.2% for women and 7.7% for men. Looking at the younger generation only, e.g. the age group of 35 to 39 year olds (microcensus 1996), the overall share of university graduates is 8.4%, that of women is 6.8%. In general, in the groups of university graduates and graduates of institutes of higher learning, the proportion of women (10.3%) has superseded that of men (10.1%).

Teaching is considered a typically female profession. 60% of teachers are women. However, the percentage of women on the teaching staff varies according to the individual fields of education. At primary and special schools, teacher training colleges for domestic science, clothing and arts and crafts, 80% of the teaching staff are female. At general and academic secondary schools women account for 60% of the staff, at teacher training colleges for 40% and at universities for less than 7%.

At ***universities***, the share of female junior lecturers has risen from 19% to 25% during the past 15 years, that of female professors has increased to 4%, which puts Austria at the bottom of the list of all European countries.

In primary schools the share of women in leading positions has grown from 36% to 48% in the past ten years, in special schools from 30% to 41% and in commercial schools from 11% to 19%. Women are still rarely encountered at the level of district or federal Province inspectors of schools (11.5% and 22% respectively).

Teacher training colleges are headed by men only, although the students they prepare for their work at compulsory schools are mostly female. In universities, women hold a mere 6% of the leading positions, at art colleges that share is slightly higher with 11%.

In 1990, under the Organisation Acts governing tertiary education, ***study groups on equality issues*** were set up at all universities and schools with university status, with the purpose of counteracting discrimination on the ground of sex. In 1995, the first ***Plan for the Advancement of Women*** for universities and schools with university status became legally binding. Since then, institutions and bodies at universities and schools with university status are required to work towards an equitable distribution between women and men employed by them. To this end, partial quota have been introduced and are binding for all remuneration and salary grades and functions. Adherence to these quota is supervised by the study groups on equality issues which, in cases of gender discriminating recruitment decisions, are entitled to lodge a complaint with the Federal Minister of Science and Research. They also have the right to file applications with the Federal Equality Commission. The Plan for the Advancement of Women was amended in 1997 to bring it into line with the current developments in this field.

Since 1998, *additional resources* have been available under the Herta Firnberg scheme which aims at integrating highly qualified young female scientists into scientific networks and thus allows them to deepen their scientific qualifications.

In recent years, grants have been earmarked for ***dissertations and postdoctoral thesis*** with the intent of motivating women to embark on scientific careers. Also, ***inter-university co-ordination centres*** for research into and studies relating to women's issues were set up in Vienna, Graz, and Linz. The purpose of these centres, which are financed by the Federal Ministry of Science and Research and by the universities and colleges involved, is to serve as contact points for female students and academics.

A ***special project*** on „University Research with Political Significance: Women in Science and Research„ has also been launched.

In order to increase the number of lectures on topics relating to women, a ***special quota for teaching assignments*** in the field of research into women's issues was introduced in 1982. This quota was raised to 200 hours per week in 1990 and has remained unchanged since then, despite many efforts undertaken by women at universities to increase it further.

Ever since the University Studies Act came into force on August 1, 1997, the ***principle of equality of women and men*** as well a ***equal ranking of research into women's issues and gender studies*** with other fields of research, have become anchored in all university-related regulations. The purpose of the provision set forth in Article 3 of the University Studies Act is to institutionalise research into women's issues and gender studies in the university curricula about to be formulated.

Only one Austrian university (the University of Innsbruck) has a ***chair*** for women's issues. However, some university institutes now have guest professorships for specific areas of women's studies.

Article 10, Letters e) and f)

Genderising, Advanced Education and Adult Education

Girls and women who have not completed their occupational training, or work in areas with poor future prospects or are unemployed, generally do not make sufficient use of ***'second chance' education*** to relieve their precarious situation. Clearly a lot remains to be done by the government to increase the share of women who choose this path of education.

Most 'second chance' education is offered in the area of technical and vocational training. 94% of schools for the gainfully employed, and 82% of employed students are found in this sector. The share of women is on the increase and is currently 25%.

The Federal Ministry of Education offers ***adult education*** courses exclusively oriented towards advanced vocational training, but also courses on a variety of topics which are rung by adult education centres, German language courses for foreigners, etc.

Article 10, Letter h)

Promoting Health and Sex Education

The principle of ***education in health matters*** constitutes an integral part of every school's curriculum. This is not merely to increase the amount of learning material, but to improve co-ordination and to facilitate a more purposeful selection of content for the different subjects in school curricula (e.g. biology, domestic science and nutrition, physical education). As schools can select their curricula autonomously, they may choose to offer

additional optional subjects and exercises. (Order of Principle, No.27.909/115-V/3/96, March 4, 1997, Circular Letter of the Federal Ministry of Education and Cultural Affairs, No. 7/1997).

Health education at school is designed to impart a health-oriented attitude towards life, to strengthen students' individual capacities, to develop a healthy relationship between schools and their environment, to establish effective structures of communication for everyone involved in school life and to produce written documentation on innovative projects.

One important aspect of health promotion is ***sex education***. This area in particular is continuously revised and updated with new information. Various projects, such as „Love Talks„ a recently introduced model of sex education, have been incorporated successfully into the scheme. This particular project, which addresses students, parents and teachers alike, consists of a series of study groups, workshops, excursions and school discussions. It is supported by the Federal Ministry of the Environment, Youth and Family Matters and the Federal Ministry for Education and Cultural Affairs, and aims to contribute towards raising the acceptance of this principle of education as well as to strengthen trust within the family.

ARTICLE 11

Elimination of Discrimination against Women at the Workplace and in Employment

The unfavourable position of women in the labour market constitutes the root cause for the ***feminisation of poverty***. Generally it can be assumed that the lack of opportunities for gainful activity, unemployment, inadequate qualifications and low incomes from work are the underlying reasons for poverty. Households in which mothers work are much less at risk of falling into the poverty trap than are single-earner families.

In accordance with the 1996 wage tax statistics roughly 20 % of the gainfully employed (excluding apprentices) earned ***standardised gross incomes*** of less that ATS 12,000 monthly, which corresponds to an annual income of ATS 168,000. These statistics, however, also include individuals in minimal employment and part-timers. On the basis of interviews conducted in the course of the 1995 microcensus, net incomes from standardised working hours were determined: according to these calculations, roughly 10 % of the gainfully employed (excluding apprentices) earn maximum net incomes from standardised working hours of ATS 10,000 monthly, which corresponds to a gross income of ATS 12,000.

Such low incomes are much more prevalent among women: whereas only one out of four men doing unskilled jobs in agriculture and forestry belongs to the lowest income group, 33 % of female wage-earners, 40 % of unskilled women, 25 % of female clerical staff performing auxiliary tasks and 20 % of female salaried employees in semi-skilled jobs are in the lowest income bracket.

A comparison of working-time-adjusted median net incomes of individuals broken down by job qualifications and sex on the basis of the 1995 microcensus shows that the higher incomes of men vary widely in the different job categories:

TABLE 1

Net incomes of individuals

Job category	Men	Women	Higher incomes of men in per cent
Wage-earners	14,900	11,100	34
Salaried employees	19,700	14,000	41
Civil servants	17,200	16,100	7
Total number of persons in gainful employment	16,200	13,300	22

Source: Sozialbericht (Social Report, 1995 Microcensus, page 171)

Income differentials between men and women generally shrank in the early 'eighties, subsequently increased until 1991, and went down again in the period from 1991 to 1995. Whereas income differentials of male and female wage earners have become smaller, they have become more pronounced in the categories of salaried employees and civil servants. The data compiled by the Austrian Federation of Social Insurance Institutions show that the median income of men not adjusted for working hours surpasses that of women by 45 %. Roughly 10 % of all wage earners and salaried employees (excluding apprentices), i. e. 279,500 men and 59,400 women in 1996 earned incomes exceeding the maximum assessment base for social insurance contributions.

Within the reference period, income differentials among women also widened significantly, although to a lesser extent than income differentials between men and women.

If ***part-time working*** is taken into account, the above mentioned 45 % higher income levels for men shrink to 29 %. The higher percentage of women working part-time account for approximately one third of the gender-specific income differential, if the calculation is adjusted for part-time working.

In 1997, 498,000 individuals worked part-time. Of these, 412,000 were women. (This corresponds to a 5 % increase of part-time workers within one year). In 1997, 14 % of the active population, on average, worked part-time. Men working part-time accounted for 4 % and women for 28 % of the active labour force. In the category of female wage and salary-earners, the share was 30 %, and that of female wage-earners as high as 35 %. The overwhelming majority of women (263,000) had regular working hours of between 12 and 24 hours a week. 220,000 worked for 25 to 35 hours a week, and 56,000 women worked up to 11 working hours a week.

Flexitime constitutes an effective instrument for taking pressure off women which results from their multiple work load and for helping them to reconcile job responsibilities and family obligations. Such arrangements also contribute significantly to involving men in caring for their families.

The percentage of the gainfully employed who worked under flexitime arrangements totalled 20 % both for men and women. In the category of salaried employees, 26 % of men and women benefit from flexitime, which compares with 20 % for civil servants and 11 % for wage-earners.

22 % of the **active population** (24 % women, 21 % men) worked continuously, regularly or seasonally at week-ends. 7 % of women worked on Saturday mornings, which compares with a mere 4 % of men. In the category of wage and salary-earners, 16 % of men and 18 % of women worked at week-ends.

In the period from 1995 to 1997 shift working increased. Especially the number of women doing shift work rose by 12 % whereas that of men went up by a mere 1.5 % in the reference period.

A breakdown of **the active population** by sectors presents the following picture: in 1997, of the 3.6 million active individuals in Austria, 6.9 % held jobs in agriculture and forestry, 29.7 % worked in the secondary and 63.4 % in the tertiary sectors. The shares of women, which have traditionally shown major differences, are 48.8 % in agriculture. 21.5 % in the secondary and 53.3 % in the tertiary sector.

In Austria, ***self-employed individuals*** account for an 11 % share of the total workforce, which falls somewhat short of the EU-average of 15 %. In the years 1996 to 1997, the number of self-employed persons (including assisting family members) rose by 0.1 % to 500,700 persons; Whereas the proportion of self-employed individuals declined further in agriculture and forestry, it rose in industry, trade and services primarily as a result of the increase in the share of self-employed women. Of the total number of self-employed persons in Austria, approx. 209,100 are women (see Statistische Nachrichten (Statistical Bulletin, 6/1998, page 4/5)).

Although traditionally the ***educational level*** of women has been lower that that of men, women who have the same educational background as their male counterparts earn significantly lower incomes, as can be seen from the table below. For demographic reasons, the educational level of women is only gradually converging with that of men. 41.3 % of Austrian women completed compulsory schooling without receiving any further education, which compares with a mere 25.3 % of men. Conversely, 44.6 % of all Austrian men completed an apprenticeship and sought no further education as against 26.4 % of women.

TABLE 2

Median Net Incomes of Persons in Gainful Employment

Highest level of formal education attained	Men	Women	Higher incomes of men in %
Compulsory schooling without apprenticeship	14,500	11,600	25
Compulsory schooling and apprenticeship	15,500	12,400	25
Medium-level vocational schools	17,500	14,700	19
Medium-level academic schools	17,900	15,400	16
Higher-level vocational schools	20,000	16,300	31
One-year course for high-school graduates, polytechnic course	21,100	17,300	22
Institutions of higher learning	21,400	18,000	19
Universities and colleges	23,000	19,500	18
Total	**16,200**	**13,300**	**22**

Source: Sozialbericht (Social Report, 1997, page 170)

Single mothers represent the group of persons in the labour force who run a disproportionately high risk of living below the poverty line. In 1994, the poverty rate of single-parent households stood at 12 % and was thus twice as high as that of the total population. (In 1994, persons whose

weighted per-capita income was below ATS 7,500, (which is 50 % of the average per-capita income of the workforce) were classified as poverty-stricken and suffered from noticeable restrictions in central domains of their lives)

Close to 60 % of the poor live in households run by wage or salary earners, some 20 % in households of unemployed individuals and 17 % in households of self-employed persons or farmers. In the category of wage and salary earners, the threat of poverty is most pronounced for unskilled workers, a group followed by salaried employees without further qualifications. Auxiliary and unskilled workers make up more than 60 % and salaried employees without further qualifications 26 % of the poor in gainful employment).

Since ***pension benefits*** primarily depend on the level of earned income and the duration of social insurance cover, a wide gender-specific gap exists in retirement benefit levels (thanks to the pension reform of 1993, periods during which a woman interrupted working life for the care of children are credited to a greater extent pension entitlements and thus no longer result in a marked reduction of benefits levels). The average old-age pension of men (excluding bonuses and allowances) under statutory pension schemes amounted to ATS 14,457 in December 1997, while that of women came to a mere ATS 8,368. (In 1997, roughly 80 % of all retirement benefits were below ATS 14,500, 15 % were in the range between ATS 14,500 and 21,000 and only 5% of retirees received benefits between ATS 21,000 and the maximum of ATS 28,540.

The ***old-age pension*** (without bonuses and allowances) for male wage-earners drawing pensions for the fist time in 1997 averaged ATS 10,959 and that of male salaried employees ATS 19,941. For women, the figures were ATS 6,468 for wage-earners, and ATS 12,609 for salaried employees (Sozialbericht (Social Report 1997)).

The majority of labour market policies for women are conceived, pursued and financed by the ***Austrian Labour Market Service***.

Under a public mandate, the branch offices of the Austrian Labour Market Services have the obligation pursuant to Section 31 (3) of the Austrian Labour Market Service Act „to use funds in such a way as to counteract the gender-specific segmentation of the labour market and to combat the discrimination against women in it".

The Labour Market Service contributes to achieving the objective of equality of women through its ***labour market policy***, which constitutes the framework within which concrete measures for the advancement of women are conceived and implemented. The policy focuses mainly on the furtherance of

- equal opportunities for girls in choosing a vocation or occupation and in training them for their future jobs
- equal opportunities for women through upskilling
- equal opportunities for women seeking access to the labour market
- measures that allow women and men to reconcile job responsibilities and family duties more easily.

Special programmes for women who wish to re-enter the labour market constitute an important tool to achieve these goals. In 1996, budget funds totalling ATS 18 million were earmarked for additional measures for the advancement of women, and in 1997 ATS 100 million were available for this purpose. Whereas in 1996 the main emphasis was placed on broadening the options for the target group (in this year, approximately 3,500 women received support to facilitate their reintegration into the world of work), in 1997 efforts focused on upskilling and employment programmes.

With a view to ***encouraging equality*** of women in the labour market in the individual domains covered by the Austrian Labour Market Service, all Province and regional branch offices are staffed with female experts on labour-market policy issues relating to women. It is their responsibility to help the Service in the planning, development and implementation of measures destined to meet women's needs.

As women are particularly hard hit by labour market problems, (average female unemployment in 1998 once again significantly exceeded that of men[26]) the Federal Ministry for Women's Issues and Consumer Protection will launch concrete measures to improve the employability of women. At the initiative of the Federal Minister for Women's Issues, a ***Vocational Training Fund for Women*** is currently being set up. This fund, which will be financed out of the Ministry for Women's Issues' budget, will serve to improve, in co-operation with interested companies, the vocational training offered to under-skilled women and will develop innovative, pro-family working time models.

Article 11, Number 1, Letter a)

Safeguarding Women's Rights to Work: With a view to safeguarding female employment, Austria pursues a multi-factor approach including suitable supply and demand-side measures and programmes.

On April 15, 1998, the Austrian Federal Government adopted the ***„National Action Plan for Employment"*** (NAP) as a ***fundamental step*** in this direction. Equality of opportunity for women and men constitutes a vital element of this Plan, which at the same time forms an integral part of other policies, such as upskilling measures. It contains road maps for each of the goals defined in Article 11 (see below).

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[26]Women 7.5 %; men 6.9 % (national computation method).

The ***gender mainstreaming approach*** chosen by the Federal Government and defined in the National Action Plan for Employment will be applied particularly in the fields of active labour market policies, basic and further training and business start-ups. At the same time, ***specific measures*** will be taken for the advancement of women, which aim at the creation of equal opportunities for women and men. This approach is viewed as exemplary by the European Commission and mentioned as one of ten best-practices measures in the draft of the "Joint Employment Report„. (Second report on the implementation of the Austrian Action Plan for Employment).

Measures designed for the furtherance of part-time working in the public sector constitute a vital element of campaigns for the elimination of differentials between female and male incomes. So far legal provisions governing part-time work have been more progressive than in the private sector. Female civil servants, for example, enjoy a legal title to part-time employment until their children start school.

The part-time campaign launched by the Federal Government in summer 1998 on the Initiative of the Federal Minister for Women's Issues in co-operation with the State Secretary of the Ministry of Finance provides for comprehensive information in the form of a brochure on the various part-time working options available to civil servants. Furthermore, the Federal Government in June 1998 introduced new facilities for the recruitment of staff substituting for federal employees working part-time. Despite the general restrictions on recruitment, federal agencies may hire staff to substitute for federal employees who wish to work part-time.

Other important initiatives were taken in the fields ***of basic, further and advanced training*** aimed at upskilling unemployed female job-seekers, at the expansion of ***regional women's foundations***, the building up of innovative ***regional training structures*** specifically designed for women,

the financing of non-profit associations ***supporting women*** in their efforts to re-enter the labour market or set up their own business[27], and measures to prompt institutions at different levels to draw up ***plans for the advancement of women***.[28]

In May 1999, the Austrian Federal Government adopted the 1999 National Action Plan for Employment which provides for the implementation of a number of measures which will further enhance equal opportunities for women. Moreover, the principle of gender mainstreaming has been defined as a guideline in its own right, which means that in the future all employment policy measures will be analysed for their impact on the labour market situation of women and be conceived with a view to improving it.

Article 11, Number 1, Letter b)

Equal Opportunity and Equal Treatment

The ***fourth amendment to the Equal Treatment Act*** (Federal Law Gazette, Number 44/1998) which entered into force on May 1, 1998, resulted in improvements in the enforcement of the Equal Treatment Act through the Ombuds Offices for Equal Treatment and the Equal Treatment Commission. These improvements were primarily achieved through the

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[27]These include „AQUA„, „NOWA – Network for Vocational Training„, „Business Women Centre„. In this context, mention should also be made of the project „Preparing Women to Lead„ which aims at the implementation of the „Fourth Action Programme of the European Union for Equal Opportunities of Women and Men„ (1996-2000) The Programme „Managing E Quality„, which sensitises companies to issues of equality „Girls are capable of more than you think„ (originally the title was „Daughters are capable of more than you think„) is designed to facilitate access of girls to formerly male-dominated apprenticed trades. In addition, a number of Austrian Ministries organise various seminars and conferences dealing specifically with the future perspective of women's work, especially in connection with the new technologies, and with the reconciliation of job responsibilities and family duties.

[28]The National Action Plan for Employment also contains suggestions for changing the ban on night working for women, see Article 11, Number 1, Letter f.

creation of regional offices, a more detailed definition of the facts constituting sexual harassment and rules of procedure.[29]

The prominent feature of this amendment is the ***regionalisation of the Ombuds Office for Equal Treatment*** through the setting up of regional offices for the Ombuds Officer. The first regional office for the Ombuds Officer for Equal Treatment Issues was set up under a Regulation issued by the Federal Chancellor on November 1, 1998. This office is responsible for the Federal Provinces of Tyrol, Vorarlberg, and Salzburg, and is located in Innsbruck, Tyrol. It is the objective of this Regulation to facilitate the enforcement of existing legal complaints procedures in the relevant regions.

In addition, the amendment states ***that sexual harassment*** by a third party, such as a colleague or customer, constitutes discrimination, even in the event that the employer has taken remedial action.

Moreover, the amendment gives clear ***indications relating to procedural aspects***, in particular, the reimbursement of travel, lodging and board for persons giving evidence and defines the periods within which claims can be lodged under the Equal Treatment Act.

Article 11, Number 1, Letter d)

Increasing the Level of Education of and the Income Potential for Women

In accordance with the Women's petition for a referendum, the Federal Law Gazette I, Number 70, 1998 introduced the option for women temporarily to engage in ***gainful activity*** during a period of maternity

[29] See passages of Article 2, Number 2, Letters b) to f) (Equal treatment in the private sector).

leave, as defined in the Maternity Protection Act and the Act on Parental Leave, which exceeds the negligibility levels.

Since January 1, 1998, ***educational leave*** pursuant to Section 11 of the Amendment to the Work Contracts Act has been permissible. Such an educational leave may also be agreed upon after a parental leave period in accordance with the ***Maternity Protection Act and the Act on Parental Leave***. It is, however, a prerequisite that the employment had already lasted for three years and that it has been agreed that the educational leave will last for at least six months up to a maximum of one year. It should be noted that during the educational leave, protection against dismissal pursuant to the Maternity Protection Act and the Act on Paternal Leave does not apply. If a person can prove that she/he is undergoing further training he/she is entitled to further training benefits (see Section 26, Paragraph one, Number one, Letter one, of the Unemployment Insurance Act). An Amendment to the Work Contracts Act which took effect on May 16, 1998 resulted in a further improvement of the situation of working women.[30]

Article 11, Number 1, Letter e)

Unemployment Benefits and Relief Payments

Since 1980, the total number of persons affected by unemployment has significantly increased, standing in 1997 at roughly 705,000 individuals, 294,000 of whom were women. After unemployment rates of women and men had converged in the first half of the 'nineties, ***female unemployment*** has continued to rise in the past few years whereas that of men has remained stable. Women stay jobless for longer periods of time (132 days as opposed to 115 days for men). Whereas the number of

[30] Comments on Article 2, Letters b) to f) (in-company advancement of women).

men receiving unemployment benefits has remained unchanged over the past few years, and that of women has slightly declined, relief payments to both women and men show a drastic increase. In 1997, 88.3 % of registered unemployed women received either unemployment benefits or relief payments, which compares with 93.3 % of men registered as jobless.

Median unemployment benefits amounted to ATS 7,300 a month for women and ATS 9,700 for men. These differences can mainly be attributed to the lower incomes of women, which are used as the assessment basis for determining unemployment benefits. The low assessment base for women, however, also results from the higher percentage of women working part-time.

Since the incomes of family members living in the same household are counted towards the family income, ***relief payments*** are significantly lower than unemployment benefits. Analogous to unemployment benefits, considerable discrepancies exist between the sexes: whereas median relief payments to women amounted to ATS 6,300, men received ATS 8,000. In 1997. 30 % of female recipients had to make do with a maximum amount of ATS 4,900 monthly, less than one third of female recipients were paid sums exceeding ATS 7,500.

TABLE 3

The Trend of Female and Male Unemployment (1996 – 1998)

Women and Men Registered as Unemployed		
	Women	Men
1996	102,482	128,025
1997	104,768	128,580
1998	108,365	129,429

Recipients of Unemployment Benefits		
	Women	Men
1996	49,583	74,432
1997	49,330	77,691
1998	48,836	72,399

Recipients of Relief Payments		
	Women	Men
1996	35,708	35,608
1997	41,184	40,964

1998	46,039	48,440

Emergency Relief

Since January 1, 1990 ***married women with children*** whose spouses have no income or very low incomes have been entitled to emergency relief payments. This provision also applies to married men with children, whose wives have waived their claim to emergency relief). Since April 4, 1998 **non-Austrian women** have also been entitled to emergency relief under the same conditions as Austrian nationals. (Prior to that date, non-Austrian women had to be in possession of a nation-wide work permit in order to qualify for emergency relief).

Pensions

In 1996, the Federal Minister for Women's Issues and Consumer Protection commissioned a study on the topic „New Ways towards Independent Pension Entitlements of Women". In the study not only the current old age pension system which is oriented to traditional male work and life patterns was evaluated, but the objectives of a new and fair old age pension scheme were defined.

Sustainable reform models were proposed with due regard to a wide variety of female life contexts, analysed for their financing potential and fairness of distribution, and compared with one another. Subsequently an intensive debate was conducted with the aim of avoiding poverty in old age through assuring an adequate standard of living for women independently of their partners and of their marital status.

In 1997, the Federal Government launched a comprehensive ***pension reform*** which at least in some areas has given due regard to the gender-specific life histories of women by aiming at improved ***entitlements of***

women to pension payments. This reform package contains the following provisions, amongst others,:

- Interruptions of working life for the care of children (up to four years for each child) are credited towards pension entitlements so that the periods during which women have no full social insurance cover are shortened. Under this scheme interruptions for childcare will be weighted more strongly from the year 2,000 onwards in determining the assessment base for pensions.

- Persons who give up work because they have to attend to family members in need of care - and these are predominantly women – may opt for continued social insurance cover by paying contributions on favourable terms.

On the occasion of the International Year of Senior Citizens, the Federal Minister for Women's Issues and Consumer Protection convened a conference on the topic „The Greying of Women" to which women and experts were invited. Thus, for the first time in Austria, the issue of how to cope with getting older was addressed from a specifically female perspective. On the basis of this highly successful initiative which met with great interest on the part of the general public and the media, further activities (multiplier seminars) have been planned for this target group (women beyond 50) and will be stepped up in the future.

Extensions of Social Insurance Cover

At the beginning of 1994, the obligation to register ***persons in minimal employment*** (i. e. individuals whose income does not exceed ATS 3,830 (the reference year 1998) was introduced. Since January 1, 1998 persons with two or more incomes from minimal employment have enjoyed full social insurance cover if the sum-total of such incomes exceeds the „negligibility threshold". Wage or salary earners in minimal employment

whose incomes did not surpass the "negligibility threshold„ have the option of taking out voluntary social insurance.

Over the past few years, new types of dependencies have emerged in the field of free-lance work or self-employment (i. e. teleworking at home, pseudo-work contracts) which have primarily affected women. These self-employed persons neither enjoy the freedom to organising their time at their own discretion nor do they have a chance to make profits. For this category, the term ***"dependent self-employed„*** was coined. Typically these individuals work for only one customer, therefore do not offer their services in the marketplace, do not employ others, do not have any capital and their net incomes do not exceed net wages paid for comparable work.

The Structural Adjustment Act of 1996 provided for the inclusion of freelances in the social insurance scheme based on the principle of solidarity. By affording the protection of the Austrian social insurance system to this category as well, a first step was taken towards establishing an all-inclusive social insurance system. The 54th and 55th Amendments to the General Social Insurance Act and the 22nd and 23rd Amendments to the Act Governing Social Insurance for Trade and Business Establishments taking into account the Resolution of the National Council E 24-NR/XX.GP which called for a broadly based and fair inclusion of all incomes from gainful activity in the social insurance scheme, contain clear definitions of the terms wage and salary earners, a redefinition of the term free-lance and the provision that the „new self-employed„ be covered by the statutory insurance system.

Article 11, Number 1, Letter f)

Measures to Combat Sexual Harassment at the Workplace

The ***Equal Treatment Commission*** is entrusted with the task of dealing with cases of sexual harassment. Pursuant to the Equal Treatment Act,

sexual harassment occurs, if at the workplace „behaviour relating to the sexual sphere is observed, which impairs personal dignity and is undesirable, inappropriate or offensive to the person exposed to it„. Empirical data demonstrate that women who are not willing to accept sexual harassment run a particularly high risk of losing their jobs. Preventive measures taken by employers as well as stronger protection under labour law constitute a promising approach (i. e. time-limited protection from dismissal, granting the right to lodge a complaint, in order to protect women against counter-accusations, a statutory ban on discrimination by employers and superiors following a complaint). Discrimination hardly ever occurs when the employment is ended or if it occurs, women as a rule had previously been exposed to sexual harassment.

Night work

As the negotiations on a general gender-neutral law on night work have failed to produce the hoped-for agreement, a **transitional arrangement** was adopted. Thus since January 1, 1998, ***waivers*** of the ban on night work done by women have been permissible, and may also be defined in collective agreements, with the proviso that both female and male employees are covered by the scope of the agreement and suitable compensatory arrangements are agreed (such as time bonuses, additional holidays, more rest periods, appropriate transport facilities, etc.). Furthermore, individuals doing night work must be entitled to transfer to another job if they can prove that night work constitutes a threat to their health. Moreover, night work cannot be imposed on employees but must agreed between the employer and the employee.

Meanwhile a series of such collective agreements have been concluded, i. e. in the metal-working industry, in mining, in plastics-processing, in the sugar industry, in the food, semi-luxury foods and tobacco industries, in

the wood-working industry, for large bakeries, florists and flower traders, dentists' practices and video tape libraries.

Austria made a ***reservation*** to Article 11 concerning night work done by women. This reservation can be withdrawn only once the ban on women doing night work is entirely lifted.

Article 11, Number 2, Letter a)

Facilitating the Reconciliation of Job Responsibilities and Family Obligations

Starting in March 1999, the Federal Ministries headed by Social Democratic cabinet members have given priority in the awarding of public contracts to companies which actively support the advancement of women or assist them in reconciling job responsibilities and family obligations[31].

With a view to facilitating the combination of family and job responsibilities, the Federal Ministry of the Environment, Youth and Family Matters stepped up its co-operation with the business community, in order to develop joint ***model projects*** for shaping a world of work that takes into account family needs. The "Austrian Audit FAMILY AND JOB„ is modelled on a US concept, the "family friendly index„ conceived by the New York Families and Work Institute„. This index measures the extent to which companies take into account family needs. In the US, this index has meanwhile become a widely recognised instrument for the innovation of human resources policies. With the "FAMILY AND JOB„ audit the family-friendliness of enterprises is assessed on the basis of a comprehensive set of criteria (i. e. working time arrangements, work premises, organisation of work) and management parameters.

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[31] Also see comments on Article 2, letters b) to f) on public procurement as an instrument for the advancement of women.

In Austria, this *project*, which involved ten **pilot companies** was started in March 1998. The audit certificate is valid for a period of three years, after which a second audit will be performed. The pilot phase ended in November 1998 and was completed with the awarding of the basic certificates. Companies have shown keen interest in participating in the audit.

The project „Managing-E-Quality" offers assistance to individual enterprises and pursues the primary goals of sensitising the general public to the need for changing organisational structures in such a way as to permit an easier reconciliation of job and family duties, especially for men, and of developing effective in-company programmes to achieve this goal. It is hoped that these efforts will heighten women's opportunities to gain equal access to the labour market and assure them stable jobs as well as development prospects. This project attaches particular importance to a change of paradigm relevant to women's policies in that men must be seen as co-responsible for the existing division of labour in present-day society.

The project addresses itself, in particular to the target group of managerial staff in public and private organisations, men with major resources and to women who take decisions on human resource development and working conditions. In addition, the project has the goal of reaching out to, sensitising and persuading trainers working with organisations and educational facilities, staff representatives and other individuals in key positions of organisations, who are responsible for the implementation of such measures.

Article 11, Number 2, Letter b)

Parental Leave

The Parental Leave Benefits Act which came into force on January 1, 1999 provides the opportunity for either the father or the mother to take parental leave. With the Parental Leave Extension Act, which entered into force on July 1, 1990, the duration of parental leave was extended by one year.

During parental leave, the mother or father receives ***parental leave benefits*** which amounted to ATS 185.5 a day in 1999. For children born on or after July 1, 1996, parental leave benefits are paid until the child's second birthday only if both parents share the leave. If parental leave is taken by only one parent, parental leave benefits are paid until the child reaches the age of 18 months.

The option to ***work reduced hours***, which applies equally to biological, adoptive and foster parents of babies and infants represents an important socio-political instrument which is defined in the Maternity Protection Act and in the Act on Paternal Leave and enacted in the tandem labour law of 1992. The establishment of a legal entitlement of parents of babies and small infants to do part-time work as well as the extension of parental leave until the sixth birthday of the child were discussed in the course of the negotiations on the „Equal Treatment Package„. Besides the demand for a more flexible parental leave scheme for part-timers, these issues represent the core areas of women's policies regarding the implementation of the Directive on Parental Leave.

Another important objective consists in giving persons on parental leave ***options for additional earnings***. Originally it was impossible for women on maternity leave to earn pin money. Under the Act on the Extension of Parental Leave women now have the option of working in minimal employment during the parental leave period. However, the problem persisted that if the „negligibility threshold„ was briefly crossed, parental leave benefits lapsed for this months. Therefore, the campaign for a

women's referendum[32] urged for this rigid rule to be eased. Since May 1998, women have been able to engage in gainful activities for which they earn incomes which (only temporarily) surpass the „negligibility threshold„. With this arrangement, working women on parental leave should be assisted to re-enter the job market.

For the implementation of the Directive on Parental Leave (96/34/EC) and the measures set forth in the National Action Plan for Employment, a „small family package" was presented in 1999 which introduced improvements to give parents more leeway in organising parental leave. These arrangements will become operative in the year 2000. The core elements of the new arrangements are the independent right of fathers to take parental leave, the option for mothers and fathers to take parental leave alternately up to the 7th birthday of the child, and the possibility for mothers and fathers not only to share but to change parental leave up to the second birthday of the child two times.

Article 11, Number 2, Letter c)

Child-care Facilities

Access to child-care facilities is a major prerequisite for overcoming the discrimination against women in the labour market.

In 1997/98 nearly all crèches were open all day without interruption. Of 434 (public and private) crèches, 427 were open all day whereas the remaining seven are conceived as half-day child-care facilities. Of the total of 4,553 kindergartens, only 2,796 (or 61 %) remain open all day. 1,045 are half-day schools, and 646 close over lunch time. The remaining 66 kindergartens are run on a seasonal basis. In Styria, Vorarlberg and Tyrol, the situation is precarious: in Styria, a mere 21 %, in Tyrol 8 % and in

[32] See comments on Article 7.

Vorarlberg as few as 7 % of kindergartens are open all day without interruption. Austria-wide, only 33 kindergartens (or 0.7 %) offer child-care on Saturdays and Sundays. In Lower Austria not a single kindergarten exists which offers child-care services at weekends. (Burgenland, Carinthia, Upper Austria and Salzburg have at least one kindergarten which remains open at weekends). (See ÖSTAT: Crèches, kindergartens and day-care centres in the reference period 1997/98, page 83).

In 1997, the Federal Government and the Federal Provinces made available a sum of ATS 1.2 billion for the ***extension of child-care facilities*** in Austria, which permitted the creation of roughly 19,000 new places for children of which more than 80% for the three to six year age band, i.e. in kindergartens. At the same time this extension resulted in the creation of approximately 2,000 additional jobs, especially for women.

In 1999, another ATS 1.2 billion have been earmarked by the Federal Government and the Federal Provinces for the creation of further child-care places which are urgently needed. In view of the existing demand for child care in Austria, these funds will be primarily used for the creation of childcare facilities for children under three years of age and for school children. Special emphasis will be placed on flexibility in order to be able to satisfy current demand for childcare services and to allow parents to reconcile their careers with family life.

In addition the Federal Minister for Women's Issues and Consumer protection supports projects which aim at the professionalisation and creation of employment opportunities for ***child-minders***, such as, for example, the transnational „Cinderella" Project, which under the EU Initiative Employment NOW is co-financed with the Austrian Labour market Service. „Cinderella" conceives and analyses new approaches to reforming the training of child-minders and establishing new schemes that offer child-minders improved protection under labour and social legislation.

Meanwhile detailed job profiles and training curricula have been worked out for child-minders and foster parents.

Furthermore, the Amendment of the Labour and Social Insurance Act of 1997 introduced an option for persons having to attend to family members, to agree with their employers on a ***reduced number of regular working hours***.[33]

Since 1988 the Labour Market Service has granted a child-care allowance to women and men who intend to either take up work or attend a course organised by the Labour Market Service, and who have low family incomes. In 1997, the child-care allowance level was raised. In this year, a total of 14,839 individuals claimed this allowance, with women accounting for 14,560 of these beneficiaries.

Article 11, Number 2, Letter d)

In the course of the implementation of the ***Maternity Protection Directive (92/85/EEC)*** the Amendment to the Maternity Protection Act of 1995 was passed which introduced more stringent provisions concerning the ban on the employment of pregnant women and an evaluation system for assessing the health hazards to which pregnant women are exposes at the workplace. Furthermore, a ban on the employment of breast-feeding mothers is currently being considered.[34]

[33] See comments on Article 5, Letter b).

[34] See comments on Article 4, Number 2.

ARTICLE 12

Elimination of Discrimination Against Women in the Health Sector

Article 12, Number 1

New Working Time Arrangement for Hospitals

In 1997, an Act Governing Working Hours in Hospitals was passed under which a uniform working time scheme was introduced for all health workers employed by hospitals. Through this act, the 100 hour weekly working time with continuous duty of up to 72 hours and up to 17 nights a month which had until then been common in some state-run hospitals was reduced to an acceptable timetable from the viewpoint of occupational medicine.

This new arrangement benefits ***women in particular***, as they continue to constitute the majority of nurses, medical assistants, etc. Among doctors, the share of women is on the increase, not only in hospitals, although female doctors still make up only one third of the total number of practising doctors in Austria. In December 1997, out of 32,720 practising doctors, 11,305 were women.

Health Promotion

This area is mainly based on a decentralised structure and occupies an important place in the Austrian health sector. The Federal Act governing Measures and Initiatives for the Promotion of, and Information on, Health (the Health Promotion Act) entered into force in March 1998. Under this act, ***additional funds*** of ATS 100 million are available for implementing the "Initiative for Health Promotion„. The Fund "Healthy Austria„ was set up and entrusted with the task of financial management. The fund

supports practice-oriented activities and relevant scientific studies as well as networking efforts on the basis of a holistic health concept.

With the establishment of Austrian networks entitled "Health-promoting Schools„, "Healthy Austrian Cities„, "In-company Health Promotion„ and "Health-promoting Hospitals„ sustainable infrastructures for health promotion have been created in Austria.

These measures are partly the outcome of Austria's co-operation with the WHO and the EU and have contributed to equal opportunities in the health sector. Today, the holistic ***health needs of women*** are being taken into account to an ever greater extent. Special attention is given to ***specific groups***, such as young girls, menopausal women, and women who are not Austrian nationals. The WHO model project WPG - "Women – Parents – Girls" offers a wide range of courses, workshops, practical guidance and counselling services. In 1999, a second centre will be inaugurated at the Kaiser-Franz-Josef hospital in the South of Vienna, in addition to the WPG health centre at the Semmelweis gynaecological hospital, which has received the WHO health award.

HIV-AIDS: Prevention and Treatment

By the end of 1998, 1,887 AIDS cases were registered in Austria. Of these, 1,194 persons have meanwhile died. In line with the international trend, new AIDS cases peaked in 1993 but have declined since then. Whereas in 1995, 203 new cases were recorded, this figure was down to 91 cases (according to preliminary data) in 1998. The mortality rate also declined significantly thanks to improved therapies. The ***share of women*** who became HIV positive in 1998 stood at 19.6 %.

Since the entry into force of the AIDS Act, ***prostitutes*** must pass an AIDS test every three months. Effective prevention would have to focus on "***clients***„ in order to prevent these from demanding high-risk sexual

practices (from clandestine prostitutes, for example) or intercourse without condoms and thus contribute to the spreading of the infection. The HIV-AIDS prevention programme for prostitutes is currently being expanded further, with specific projects being launched in the Federal Provinces.

In-vitro Fertilisation

The Act on Reproductive Medicine which became operative in 1992, governs medically- assisted procreation and contains provisions regarding the consent to donate, counselling and record keeping, use and preservation of semen, ova and ova capable of developing.

To date, the state-run health insurance funds have not reimbursed the costs for in-vitro fertilisation. On January 1, 2000 a law will enter into force which will provide for the setting up of a fund under public law for co-financing in-vitro fertilisation. In cases where the eligibility criteria are met, 70% of the costs of the therapy will be covered by this fund. The retention of 30% can be financed by the Provinces or by local governments. Individuals have the right to claim reimbursement of the costs for a maximum of four in-vitro fertilisations leading to one pregnancy provided that the woman has not reached her 40th, and the man has not reached his 50th birthday.

Article 12, Number 2

Medical Care for Mothers and Children

Efforts directed at an improvement of medical care for pregnant women, babies and small infants were carried on throughout the reporting period. The medical examination scheme provided for in the ***„Mother and Child Passport"*** which was introduced in 1974 assures basic medical care during pregnancy and the child's first years of life. Until the end of 1996, the examinations called for in the Mother and Child Passport had to be

made in order for the mother to obtain a higher childbirth grant of ATS 15,000. As of 1997 this arrangement was replaced by a ***Mother and Child Passport Bonus*** of ATS 2,000 which is paid only if the pregnant woman undergoes all required examinations and has her child repeatedly examined until its first birthday; in addition, it is worth noting that the bonus is staggered according to income brackets.[35]

Thanks to the examinations provided for in the Mother and Child Passport, infant mortality has significantly declined from 23.5 % in 1974 to 4.7 ‰ in 1997. Within this period, the mortality rate of women in the weeks following childbirth was also brought down from 19.5 to 2.4 deaths per 100,000 live births.

ARTICLE 13

Eliminating Discrimination Against Women in other Areas of Economic and Social Life

Article 13, Letter a)

Support to Families

With a view to reimbursing families part of the cost of bringing up children, ***a family allowance*** is granted for each child. The money is paid out of the Family Burdens Equalisation Fund until the child reaches his or her 19th or, in case of unemployment, his or her 21st birthday, or if the young person pursues extended studies, until his or her 26th birthday.

As a result of the tax reform, in the first phase starting in 1999, ***family allowance*** was increased by ATS 125 monthly per child across all age

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[35] The Mother and Child Passport Bonus is granted to families whose total annual income does not exceed ATS 504,000 or EUR 36,627.11).

bands, and the tax allowance for dependent children was also raised by ATS 125 monthly for each child. As of the year 2000, family benefits will again be raised. The tax allowance for dependent children is uniform for all children, amounting to ATS 700. From the year 2000 onwards, the staggered system of tax allowances, depending on the number of children in the family will be applied to family allowances and no longer to the tax allowance for dependent children. Family benefits have thus increased by ATS 3,000 in 1999, and will go up by ATS 6,000 per child annually. As of the year 2000, family benefits will amount to ATS 2,150 for the first child in the age group 0-10, for the second child ATS 2,325, and from the third child on to ATS 2,500. For children in the age group 10-19 an additional amount of ATS 250 is granted, and for children after their 19th birthday to their 26th birthday another ATS 300 are added. This reform of family taxation which made available to families additional funds totalling ATS 12 billion, was carried out in response to a ruling of the Austrian Constitutional Court which states that having children is not merely a private matter of life style or based on a personal decision to assume a risk.

The ceiling for the ***tax relief for sole earners***[36] (granted only to families with at least one child) or for the tax relief for sole earners in the form of a negative tax was raised from ATS 2,000 to ATS 5,000.

Article 13 Letter b)

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[36] The tax allowance of ATS 5,000 for sole earners can be paid to taxpayers who have been married for more than six months in the relevant calendar year and who are not permanently separated from their spouses, who are subject to unlimited tax liability, or who cohabit for more than six months per calendar year with a live-in partner and have at least one child, for whom one of the partners receives a family allowance. The claim to tax relief for sole earners is not lost if the spouse earns up to a maximum amount of ATS 30,000 annually (until 1994, the ceiling was ATS 20,000). In families with at least one child (for which a family allowance is received) or common law marriage partnerships similar to marriage) with at least one child, the spouse or a partner my earn up to ATS 60,000 annually. The tax relief for sole earners (having at least on child) and the tax allowance for single parents are granted in the form of a negative tax of up to ATS 2,000, if tax relief can either not at all or not entirely be claimed because the income is too low.

Debt Relief Procedures

The debt repayment scheme for private persons was introduced in early 1995 with the aim of granting very heavily indebted private persons residual debt relief after a certain period or after redemption of a minimum percentage of the debt. Originally it was hoped that this new provision would help women without incomes and property to settle debts which their spouses had contracted and for which they had acted as guarantors. Initial experience, however, showed that especially women near the poverty line often cannot meet the conditions for making the application for debt relief.

Therefore, the Amendment to the Consumer Protection Act of 1997 established the ***right of judges to exercise discretion*** in dealing with personal guarantees furnished for securing loan contracts. Under the new arrangement, judges at their discretion may lower the redemption amount or grant full debt relief in cases where the ration between the indebtedness level and the repayment capacity of the person concerned appears inequitable. In addition, an obligation was imposed on lenders to provide more detailed information on the terms of loans taken out by married couples.

Apart from these new provisions, the Federal Minister for Women's Issues and Consumer Protection has meanwhile submitted proposals aimed at improving the current debt redemption procedures. A Working Group on „Experience Gained with Private Bankruptcy Proceedings" has been studying possible alternatives to the current system since 1998.

ARTICLE 14

Elimination of Discrimination against Women in Rural Areas[37]

Article 14, Number 1

Assessment of the Situation

Studies, to the financing of which the Federal Ministry of Agriculture and Forestry made considerable contributions, were ***conducted*** with a view to understanding the situation and identifying the self-image of farmers' wives in Austria. The research projects "Farmers' Wives – the Dichotomy between Tradition and the Modern Era„, and "An Analysis of the Situation of Female Farmers in Austria, 1996„ are examples of these studies.

Article 14, Number 2, Letter d)

Further Training and Upskilling Programmes

In co-operation with the Province Chambers of Agriculture, the Federal Ministry of Agriculture and Forestry organises further training and upskilling courses for female farmers and farmers' wives. These programmes deal with a variety of issues, such as the topic „Holidays on a Farm" or „Direct Marketing by Farms". Through these initiatives, women in agriculture are to be sensitised to and enabled to take advantage of alternative sources of income and to offer additional qualified services.

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[37] Also see Article 3, text passage dealing with the Austrian Development Co-operation Scheme.

ARTICLE 16

Elimination of Discrimination against Women in Marriage and the Family[38]

Article 16, Letter c)

Reform of Marriage and Divorce Legislation

In co-operation with the Federal Ministry for Women's Issues and Consumer Protection as well as the Federal Ministry of the Environment, Youth and Family Matters, the Federal Ministry of Justice prepared a reform of the Austrian marriage and divorce legislation as well as of provisions governing the effects of marriage on divorce issues.

With the adoption of the Amendment to the Marriage Act of June 22,1999, which will enter into force on January 1, 2000, a variety of ideas which had been proposed for the reform were translated into reality.

The amendment serves the objective of furthering the principles of equality and partnership in marriage, of strengthening the protection of the economically weaker spouse, of focusing more strongly on the principle of entitlement to divorce in the case of irretrievable breakdown of the marriage, of orienting maintenance payments to actual needs, and of furthering mediation. The basic elements of marriage legislation and divorce legislation and the law governing the effects of marriage on divorce issues have, however, in principle been preserved.

The below-described modifications to the law are of particular importance. In detail these are the following:

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[38] See comments in Articles 2 and 5 on the protection of women and children from violence and measures for combating domestic violence, sexual abuse, etc. – as well as the passage in Article 11, Number 2, Letter c) on child-care facilities.

In future, the spouses may, by mutual consent, forego the obligation of one spouse to assist the other in earning a livelihood, provided that this can be deemed reasonable and is usual under the given life circumstances of the couple, i.e. in farming, for example.

The sharing of work in the household and within the family on the basis of partnership was clearly defined in law; a unilateral withdrawal from the agreed upon form of organising conjugal life shall henceforth be permissible[39].

Another novelty is the option given to spouses who earn lower incomes or have no incomes to demand maintenance partly or entirely in the form of money even if the spouses live in the same household, provided that such a demand is not unreasonable.

The Amendment to the Marriage Act sets forth serious matrimonial offences as reasons for granting a divorce on the grounds of guilt. The infliction of physical harm or severe emotional pain or suffering are expressly defined as equally serious matrimonial offences as adultery, which can lead to divorce in case of irretrievable breakdown of the marriage.

One of the most vital new provisions concerns the introduction of the obligation to pay maintenance for a limited period of time to a needy ex-spouse, irrespective of his or her guilt, which led to a divorce, if the divorced spouse cannot be reasonably expected to engage in gainful activity because she/he cares for and brings up a common child. This situation is presumed until the child reaches its fifth birthday. Maintenance irrespective of guilt must also be granted to needy ex-spouses, if under an agreement between the spouses, such an ex-spouse had run the

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[39] See Comments on Article 5, Letter b) on division of labour within the family on the basis of partnership.

household, brought up children or attended to a family member in need of care and therefore, for lack of possibilities to earn a living, cannot be reasonably expected fully or partly to earn her or his livelihood. In such cases, maintenance payments may be granted for an unlimited period of time, provided that such an ex-spouse would be able, in the future, to fend for herself/himself.

Another new provision relates to the obligation of courts to notify, subject to the consent of the party concerned, the competent social insurance institution that she/he would lose health insurance cover as a result of the divorce. The social insurance institution has to inform the party concerned about the consequences of divorce on his/her social insurance status and to draw her/his attention to the option of paying voluntary contributions so as to remain covered by social insurance.

In the future, matrimonial homes brought into marriage, acquired upon the death of, or donation by a third party, will be included in the matrimonial asset distribution procedure if one of the spouses or a common child of the couple for good reasons has the need for such a home. In the distribution of matrimonial property, assets of everyday use or savings of the couple which were contributed to an enterprise in which one of the spouses has a holding or which are otherwise used for such an enterprise are to be considered, as a matter of principle, in the distribution of the matrimonial property between the ex-spouses.

The Amendment to the Marriage Act of 1999 furthermore stipulated clearly that court-imposed bans on the sale, mortgaging or encumbering of houses or owner-occupied flats are permissible in order to safeguard an urgent housing need of a spouse. With these means of providing security, enhanced protection against the loss of matrimonial homes can be achieved. Once proceedings for divorce are pending, the court-imposed bans can now be obtained with greater ease than in the past.

Furthermore, the Amendment to the Marriage Act and related substantive procedural law provisions institutionalised mediation and imposed an obligation on courts to draw the attention of parties not represented by legal counsel to relevant counselling services if needed.

In response to a demand frequently voiced in practice, spouses may, upon request obtain a copy of the divorce decree, in which no reasons for the court decision are stated. The applications for such a copy of a divorce decree may be made at any time.

Counselling in Divorce Proceedings

On the basis of a model project carried out in 1994/1995 the Federal Ministry of the Environment, Youth and Family Matters, and the Federal Ministry of Justice jointly launched and conducted the project ***„Mediation„***. It is the objective of this project to offer individuals suffering from conflicts in connection with divorce, custody of children and access regulations an alternative, constructive conflict settlement method, which takes into account the needs and interests of all parties involved and thus offers satisfactory solutions. The project was started in two district court areas and is being continuously extended to other areas until nation-wide coverage is attained. At present, some 40 district courts with 28 mediation teams offer mediation services in six Federal Provinces. In co-operation with the Ministry of Justice another 40 district courts will, within the immediate future, use this mediation programme. As the rates for mediation will be staggered according to social parameters, all population groups will have the opportunity to take advantage of this scheme.

Support to children forms part of this model project:

Negative consequences on children when their parents split up are to be countered to the greatest possible extent through specific support to children (in groups, on a one-to one basis, or involving the parents) with

special emphasis being placed on the specific circumstances after a divorce or separation. In a neutral setting, such as a children's group, children can learn to cope with the problems resulting from the divorce or separation of their parents. Social pedagogical group work is done in order to relieve some of the suffering of children and to help the children to gain inner poise. At present, close to 100 rainbow groups are run Austria-wide, which offer support to children whose parents have separated or divorced.

The project module „family counselling" offers advice to families on court days and on court premises. At present, 25 district courts, located in all the Federal Provinces, offer such counselling services on court days.

Family Counselling and Protection of Children

A network of 309 ***family counselling centres*** which are primarily addressed by women having a variety of problems, such as difficulties in their relationships, with reproduction or the upbringing of their children, receives ATS 110 million annually out of the coffers of the Federal Ministry of the Environment, Youth and Family Matters (see also above „family counselling in courts"). In these institutions, counselling services are rendered free of charge, and clients are not required to reveal their identity. Depending on the type of problem and on actual needs, the counselling is done by physicians, psychologists, social workers, marriage and family counsellors as well as lawyers.

In addition, the Federal Ministry of the Environment, Youth and Family Matters is currently establishing ***new centres and groups for the protection of children*** in hospitals, for which an annual sum of ATS 12 million has been earmarked.